



# राजपत्र, हिमाचल प्रदेश

## हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

मंगलवार, 02 जनवरी, 2024 / 12 पौष, 1945

हिमाचल प्रदेश सरकार

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

*Dated the 29th November, 2023*

**No. LEP-A003/28/2021-LEP (Awards) L.C. Shimla.**—In exercise of the powers vested under section 17 (1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased

to order the publication of awards of the following cases announced by the Presiding Officer, Labour Court Shimla on the website of the Department of Printing & Stationery of Himachal Pradesh i.e. e-Gazette:—

Sl. No.	Case No.	Petitioner	Respondent	Date of Award/Order
1.	Ref.240/2020	Sh. Suresh Kumar	Himachal Baspa Power Company Ltd.	05.10.2023
2.	Ref.154 /2019	Sh. Gian Dutt	The D.F.O. Rohru & Ors.	06.10.2023
3.	Ref.239/2020	Sh. Jai Parkash Mishra	Himachal Baspa Power Company Ltd.	16.10.2023
4.	Ref.67/2021	Smt. Sudesh Kumari	M/s Penguin Electronics Ltd.	16.10.2023
5.	Ref.72/2021	Sh. Sanjay Kumar	M/s Penguin Electronics Ltd.	16.10.2023
6.	Ref.83/2021	Sh. Avinash Kumar	M/s Penguin Electronics Ltd.	16.10.2023
7.	Ref.90/2021	Sh. Suresh Kumar	M/s Penguin Electronics Ltd.	16.10.2023
8.	Ref.277/2021	Sh. Joginder Singh	M/s Penguin Electronics Ltd.	16.10.2023
9.	Ref.99/2017	Sh. Bija Ram Bhardwaj	M/s Devyani Food Industries Ltd.	19.10.2023

By order,  
DR. ABHISHEK JAIN. IAS.,  
Secretary (Lab. & Emp.).

Ref. No. 240/2020

Sh. Suresh Kumar & Workers Union

*Versus*

Himachal Baspa Power Company Ltd.

05.10.2023.

Present: Sh. Niranjan Verma, Ld. Csl. for petitioner

Sh. Prateek Kumar, Ld. Csl. for respondent

An application under Section 151 CPC has been filed on behalf of the respondent. At the stage the Ld. Csl for the petitioner stated that the matter was amicably settled between the parties. He do not want to perused the present petition. Statement recorded, and placed on record. The present petition is dismissed as withdrawn. Therefore, nothing survive in the present reference petition, Let a copy of this order be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 05.10.2023

Sd/-  
(KRISHAN KUMAR).  
Presiding Judge,  
Labour Court, Shimla.

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**IN THE COURT OF SH. KRISHAN KUMAR, PRESIDING JUDGE, H.P. INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Ref. No. : 154 of 2019

Instituted on : 12.12.2019

Decided on : 06.10.2023

Sh. Gian Dutt, s/o Late Shri Murat Singh, Village Batari, P.O. Ashal, Tehsil Rohru, Distt. Shimla, H.P. . .*Petitioner.*

1. The Divisional Forest Officer, Rohru Forest Division Rohru, Distt. Shimla, H.P.
2. The State of H.P through Secretary (Forests), Forest Department Shimla-2
3. The Labour-*cum*-Conciliation Officer, Rampur Zone, Rampur Bushehar, District Shimla, H.P.
4. The Labour Commissioner, New Himrus Building, Himland, Shimla, H.P. . .*Respondents.*

**Reference under section 10 of the Industrial Disputes Act, 1947**

For petitioner : Shri Bhag Chand, Advocate

For respondents : Shri Prakash Thakur, Dy. DA.

**A W A R D**

The appropriate government seeks a determination from this Court on the following point:—

**“Whether termination of the services of Sh. Gian Dutt, s/o Late Shri Murat Singh, Village Batari, P.O. Ashal, Tehsil Rohru, Distt. Shimla, H.P., w.e.f. April 2011 by the Divisional Forest Officer, Rohru Forest Division Rohru, Distt. Shimla, H.P. without complying with the provisions of the Industrial Disputes Act, 1947 and thereafter offering him work on bill basis is legal and justified? If not, to what relief to reinstatement & compensation the above aggrieved workman is entitled to from the above employer?”**

2. The claim set-up by the petitioner, in brief, is that in the year 1992, he was engaged on Muster Roll Basis in Forest Range, Tikkar under the Forest Division, Rohru and as such worked there from 1992 to 1996, when on the excuse of non-availability of work and budget, he was retrenched. Thereafter, the petitioner had been running from pillar to post to get himself re-engaged and when nothing was done, he wanted to get copies of the Muster Rolls for the above mentioned period from the department, but all went in vain. The petitioner has no access to the official documents, therefore, respondent no. 1 be directed to produce the Muster Roll and cash books for the period from 1992 to 1996 of Tikkar Range. One affidavit of Shri Shiv Raj Sharma is also annexed regarding his working in Forest Department from 1992 to 1996.

3. The petitioner was re-engaged on Muster Roll basis w.e.f. 15.04.2010 with assurance and understanding that he would not make any claim, whatsoever, for his working from 1992 to 1996 in Tikkar Forest Range. The petitioner have no source of income, hence, he agreed for the same and he was engaged on Muster Roll basis from 15.04.2010 to 31.03.2011 but he was not allowed to complete 240 days in a calendar year on the excuse of non-availability of work and budget. Though, the department is multifarious nature of like growing of nursery, plantation, looking-after and protection of nursery plants, protection of forest from fire, seized timber watching etc., with sufficient budget in reply to the notice. The department has wrongly mentioned that the petitioner himself failed to complete 240 days in a calendar year, which is self-contradictory as in one hand they are taking the plea of insufficiency of budget and non-availability of the work and on the other hand the blame is put on the petitioner for not completing 240 days in a calendar year. Such, plea of the respondent is not supported by any documents and no service record was maintained by the department after 2011.

4. Thereafter, the petitioner was deployed on bill basis without any notice and consent. The action of respondent no. 1 is illegal and amounts to termination and there is no record maintained by the respondent no. 1. Neither any record of the petitioner was maintained nor he was engaged for the whole year, whereas he was ready and willing to work for the whole year. This all is being done only to defeat the claim of the petitioner.

5. The change of the working is also unfair labour practice as defined in Section 2 (ra) of the Industrial Dispute Act and even in Reference No. 32/15, the plea regarding shortage of budget and seasonal work has been held to be untenable. As per Annexures P-9, P-10, P-12 and P-13, which are the copies of the Muster Rolls, the petitioner as well as Shri, Rajiv Kumar was also the co-worker, who filed the Reference Petition 32/2015, on the same line. Therefore, the claim of the petitioner may be allowed and the petitioner may be deemed to be working on Muster roll basis on and w.e.f. 15.04.2010.

6. The demand notice was sent to the respondents along with documents on 02.04.2019, but no action was taken. The petitioner was summoned by respondent no. 3, vide letter Annexure P-35 and he appeared on 26.04.2019 and 28.05.2019, however, it was told to the petitioner that he had no case, therefore, the present petition has been filed.

7. The respondents No.1 & 2 resisted and contested the claim of the petitioner by filing reply, wherein preliminary objections qua maintainability due to his own acts, conduct and acquiescence's and the engagement of petitioner was co-terminus basis have been taken.

8. On merits, it is averred that as per the report submitted by the Forest Range Officer, Tikkar, the petitioner was never engaged as daily wager during the period from 1992 to 1996, therefore, the question of retrenchment from the work does not arises. The petitioner has not worked in Tikkar Forest Range, hence, the muster roll cannot supplied. As a matter of fact, Shri Gian Dutt was engaged as casual labour in the year 2010, in Beat Range and he worked as casual labourer on bill basis up to 30.06.2019. The affidavit of Sh. Shiv Raj Sharma is false. The petitioner was not re-engaged on assurance and understanding that he did not raise any claim for his service from 1992 to 1996. Though, the petitioner was engaged on muster roll basis on 15.04.2010 to 31.03.2011 and thereafter on bill basis. As a matter of fact, the work in the department is seasonal nature and based on availability of funds. The petitioner himself failed to complete 240 days in a calendar year as is evident from mandays chart prepared from the record available in the office. The department had given the work when it was available. As a matter of fact, the applicant had worked for 145 days during the year 2010 and 50 days in the year 2011 and thereafter from November 2011 to July 2019, on bill basis in lieu of notification dated 28.04.2009. He never raised any objection before any competent authority. The judgment passed by the Hon'ble Presiding

Judge, H.P. Industrial Tribunal-cum-Labour Court in reference no. 32/2015, is not applicable to this case as the facts of this case is not similar to the reference No. 32/2015, no fresh worker after 2010, has been engaged. The other contents denied with the prayer that the petition may kindly be dismissed.

9. The respondent no. 3 and 4 filed separate reply, wherein preliminary objections qua maintainability, cause of action and the respondents No. 3 & 4 are neither necessary nor proper party to the present petition as the dispute has been referred for adjudication to the competent authority.

10. On merits, it is submitted that the demand notice dated 01.04.2019, was given by the petitioner to respondent no. 1 with a copy to respondent No. 3, which was replied by the employer department and no settlement was arrived between the parties, hence, failure report under Section 12(4) of the Industrial Dispute Act, 1947, has been sent to the appropriate government i.e. Labour Commissioner, H.P. During the conciliation proceedings, respondent no. 3, made best efforts to settle the matter but failed and accordingly the report was made and it was sent to the appropriate government. The appropriate government came to the conclusion that the case of petitioner is fit for reference for the proper adjudication of dispute and accordingly it was sent to this Court. The other contents denied with the prayer that the petition may be dismissed.

11. Rejoinder not filed

12. On 19.02.2020, the following issues had come to be framed by my Learned Predecessor:—

1. Whether the action of the respondent in engaging the petitioner on bill basis rather than on muster roll basis and finally terminating him from the services on 01.07.2019 is violative of the provision of the Industrial Disputes Act, 1947 as alleged. If so, to what relief the petitioner is entitled to? . . .*OPP*.
2. Whether the claim is not maintainable as the petitioner has no cause of action, as alleged, if so its effect thereto? . . .*OPP*.
3. Relief

13. Having considered the pleadings, evidence and other attendant material placed on record, my findings on the issues framed are thus:—

Issue No.1	:	No Not entitled to any relief
Issue No.2	:	No
Relief	:	Reference is answered in negative as per operative part of the award.

### REASONS FOR FINDINGS

*Issues No. 1 & 2.*

14. Being interlinked and correlated, both the issues are taken for discussion and decision.

15. In the instant case, the dispute does not per se relates to the termination simplicitor but to the change in the condition of service of the petitioner, whereby the respondents are offering him work on bill basis w.e.f. 01.04.2011. Though, technically the action of the respondents in changing the working conditions w.e.f. 01.04.2011, by offering him work on bill basis will tantamount to cession of work and as such will however fall within the definition of section 2 of the Act. The first

part of the reference is termination and later part is offering of the work by the respondents on bill basis.

16. Admittedly, the petitioner had claimed that he was engaged on muster roll basis in Forest Range Tikkar in the year 1992 and he worked there up to 1996 and thereafter, he was retrenched from the muster roll and after that he was on pillar to post. Thereafter, in the year 2010, he was engaged as daily wager on muster roll basis w.e.f. 15.04.2010 and up to 01.04.2011, after that his service condition was changed on bill basis. On the other hand, the respondents disputed the fact that the petitioner never worked with the department from the year 1992 to 1996 and no record was available. But he was engaged in the year 2010 w.e.f. 15.04.2010 and he worked on muster roll basis upto 31.03.2011 and thereafter, on the bill basis and he never raise any objection till 2019. Even, the petitioner was engaged only on the basis of availability of funds. The petitioner himself admitted that he has not completed 240 days in a calendar year, which is also clear from man-days chart prepared on the basis of record. Therefore, the claim of the petitioner is not sustainable and moreover the fact of the reference no. 32/2015 are not similar of this case. In order to prove these facts, the petitioner himself appeared into the witness box as PW/1 and placed on record his affidavit Ex. PW1/A. He has also placed on record the demand notice Ex. PW1/B, copy of Judgment in reference no. 32/15 Mark-PA, letter dated 06.03.2017 Mark-PB and abstract of muster roll Mark-P1 to Mark P-9 and bills Mark- P10 to Mark- P27, demand notice Ex. PW1/D, Postal receipt Ex. PW1/E, letter dated 08.04.2019 Ex. PW1/F. In cross examination, he admitted that he worked on muster roll basis from 15.04.2010 to 31.03.2011 and thereafter, he had been engaged on bill basis. Self-stated that he worked since 1990 with the respondents. He denied that he was engaged for the protection of forest fire. He admitted that the work of forest fire is a seasonal work. He denied that he was kept only for seasonal work. He denied that he had not worked from 1992 to 1996 and he does not aware that enquiry was conducted in this regard and report was submitted by the Range Officer. He denied that he had not worked for 240 days in a calendar year from 2010 to 2019. He denied that the respondents did not gave any assurance for not making the claims for the period w.e.f. 1990 to 1996.

17. PW-2 Shri Shiv Raj Sharma, submitted that the petitioner had been working with the department since 1990 and he used to meet him at Tikkar where the petitioner used to work. In cross examination, he admitted that he is not aware about the area of Tikkar Beat as he is not working for the respondents. He denied that the petitioner was not working with department since 1990 to 1996.

18. PW-3 Sunil Dutt, Forest Range Officer in Basla Range of Rohru Forest Division has brought the requisitioned record i.e copy of muster roll w.e.f. 15.04.2010 to 31.03.2011 and bill voucher. In cross examination, he admitted that the petitioner is not known to him. He admitted that the petitioner was engaged as casual worker for seasonal basis subject to availability of the budget. He admitted that the petitioner had not worked with the respondent since 1990 to 1996.

19. PW-4 Shri Vijay, s/o Shri Krishan Chand posted as Junior Office Assistant in the office of Industrial-Tribunal-cum-Labour Court Chakker, who has brought the requisitioned record i.e copy of the award dated 08.03.2019 passed in reference no. 32/15, PW4/A.

20. In order to rebut the evidence of the petitioner, the respondents have examined Sh. Kabir Inder Nath, Range Forest Officer, who placed on record his affidavit Ex. RW1/A and also tendered in evidence letter dated 17.04.2019 Ex. RW1/B, man-days chart Ex. RW1/C and notification dated Mark RX-1. In cross examination, he denied that the petitioner had worked on muster roll basis with Range Officer, Tikkar from 1992 to 1996. He denied that he has intentionally concealed the record. He denied that the petitioner was reengaged by the respondents on muster roll basis w.e.f. from 15.04.2010 to 31.03.2011, but admitted that the petitioner was engaged on bill basis, on his consent, from November 2011 to July 2019. He admitted that in reference no. 32/15, this court directed the respondents for re-engagement of Rajeev Kumar, but denied that he was also

on the same footing. He admitted that later on of his service was regularized. He admitted that he is not from Tikkar Beat and the record must be available with R.F.O Tikkar.

21. This is the entire evidence placed on record. Though, the case file shows that the record of the petitioner from Tikkar Forest Range was placed on record, where he was reengaged on muster roll basis. Therefore, one thing is clear that he worked with the department in Tikkar Range from 1990 to 1996. There is no reasonable explanation on record that he was retrenched in the year 1996 as he has failed to prove on record which could go to show that he has made any representation to the department regarding his retrenchment or anything else. Though, the demand notice was sent by the petitioner regarding termination from department in the year 2019, which is placed on record as Ex. PW-1/B. The reference is also regarding the final termination from the services by the department on 01.04.2019. It is an admitted fact that the petitioner was engaged on muster roll basis w.e.f. 15.04.2010 and he was deployed on the work. The petitioner worked up to 01.04.2011, on muster roll basis after that the department changed the service on the basis of notification dated 28.04.2009, issued by the Forest Department properly introducing bill/ tender system for all workers including casual labour of project related worker in the Forest Department including plant fire protection, soil conservation works etc. and after that all the works of the forest department should be done on bill basis except were already continuing on muster roll basis and who are working for the last many years cannot be removed, the copy issued with the prior approval of the Divisional Forest Officer, apparently based on the dictates of the department. The respondents started engaging the petitioner on bill basis after April, 2011. This was the only reason which compelled the respondents to change the service conditions of the petitioner from muster roll to bill basis. Though, it is admitted position on record that the petitioner was engaged on bill basis after April, 2011, as and when the work was available. Admittedly, the petitioner, as per the respondent themselves, was working on muster roll basis till April, 2011, which fact is also clear from man-days chart Ex. RW1/C placed on record. The petitioner worked from 15.04.2010 to 01.04.2011 on muster roll basis only for 195 days and thereafter he was engaged on bill basis. Admittedly, the petitioner has not completed 240 days in a calendar year even when he was left from the job on 01.07.2019 and prior to that he had not completed 240 days in any calendar year even from 15.04.2010 till 01.07.2019. Even, it is assumed that his services were changed without any notice, having no effect on the claim of the petitioner as he had not completed 240 days in any calendar year and beside this in reference no. 32/15, Shri Rajiv was engaged by the department in Jan, 2009 and had completed 240 days in a calendar year. Therefore, his service were re-engaged by the department of muster roll as daily wager.

22. Therefore, keeping in view my aforesaid discussion, I am of the considered opinion that the petitioner has not completed 240 days in any calendar year before 01.07.2019. Hence, the action of the department cannot be called as illegal and unjustified in law. Both these issues are decided accordingly.

#### *RELIEF*

23. For all the foregoing reasons discussed hereinabove supra, the claim filed by the petitioner is dismissed and the reference is answered in negative. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today this 6th day of October, 2023.

Sd/-  
(KRISHAN KUMAR),  
Presiding Judge,  
Industrial Tribunal-cum-Labour Court, Shimla.

Sh. Jai Prakash Mishra through Workers Union

*Versus*

Himachal Baspa Power Company Ltd.

16.10.2023.

Present: Sh. Niranjana Verma, Ld. Csl. for petitioner

Sh. Prateek Kumar, Ld. Csl. for respondent

At the stage, the Ld. Csl. for the petitioner stated that the matter was amicably settled between the parties. He do not want to perused the present petition. Statement recorded separately and placed on record. The present petition is dismissed as withdrawn. Therefore, nothing survive in the present reference petition, Let a copy of this order be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 16.10.2023

Sd/-  
(KRISHAN KUMAR),  
*Presiding Judge,*  
*Labour Court, Shimla.*

**IN THE COURT OF SH. KRISHAN KUMAR, PRESIDING JUDGE, HP INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Reference Number : 67 of 2021

Instituted on : 01.03.2021

Decided on : 16.10.2023

Smt. Sudesh Kumari, w/o Shri Vinod Kumar, Village & P.O. Sadhot, Tehsil Sarkaghat,  
District Mandi, H.P. . . . *Petitioner.*

*VERSUS*

1. The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh  
Road, Village Sallelwal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P.

2. M/s Preethi Kitchen Appliances Pvt. Ltd., (Unit-III), Village Sallelwal, P.O. Bhatian,  
Tehsil Nalagarh, District Solan, H.P. Through its Managing Director. . . . *Respondent.*

**Reference petition under section 10 of the Industrial Dispute Act, 1947**

For the Petitioner : Ms. Neetu Sharma, Advocate and  
Shri J.C. Bhardwaj, AR.



For the Respondents : Sh. Rajeev Sharma, Advocate

### A W A R D

The following reference petition has been, received from the Appropriate Government vide notification dated 23.02.2021, under section 10 of the Industrial Dispute Act, 1947 (**hereinafter referred to be as the Act**), for its legal adjudication, as under:

**“Whether the demand of Smt. Sudesh Kumari, w/o Shri Vinod Kumar, Village & P.O. Sadhot, Tehsil Sarkaghat, District Mandi, H.P. for her reinstatement in service before the management i.e. the Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?” and if not its effect?”**

2. Material facts necessary for the disposal of present reference petition as described in the statement of claim are thus that the petitioner was engaged as a Technician with M/s Prithi Kitchen Appliances Pvt. Ltd. (unit III) Village Sallawal Bharatgarh Road, Tehsil Nalagarh (**hereinafter to be referred as M/s Prithi Kitchen**) and remained as such till her illegal removal from the company on 15.02.2019. As a matter of record, M/s Prithi Kitchen was taken over by the M/s Penguin Electronics Ltd. and the petitioner was pressurized by M/s Prithi Kitchen to apply for fresh recruitment with respondent and as such on 26.02.2019, the petitioner applied to the respondent company and remained as such, till she was illegally terminated by the respondent company (Penguin Electronics) on 20.02.2020 on the ground that the company is being closed. The very action of the respondent to terminate the services of the petitioner is biased, unfair and unreasonable. The respondent management had forcibly and illegally obtained the signatures of the petitioner on some blank papers and thereafter started causing interference and hindrances in the joining of the duty by saying that there is no necessity, as the company is going to be closed. The petitioner had requested the respondent company to allow her to join her duties but to no avail. The termination of the petitioner from service without affording any opportunity and conducting any domestic enquiry is illegal and not sustainable in the eyes of law.

3. In the footnote of the petition, the following prayer clause has been appended, which reads as under:

**“It is therefore prayed that this Hon’ble Court may kindly be pleased to declare the so called settlement, the coercive, resignation and termination null, void and inoperative by the respondent on 20.2.2020 and allow the petition of the petitioner /claimant thereby directing the respondent/management to reinstate the services of the claimant/petitioner in the respondent company with full back-wages, seniority and other consequential service benefits throughout with costs.”**

4. The lis was resisted and contested by respondent by filing written reply on *inter-alia* preliminary objections of maintainability, full and final settlement arrived at between the parties, the petitioner had not approached the Court with clean hands, claim is bad in the eyes of law, not a legal reference, mis-joinder of necessary parties and the petitioner has tendered her resignation, which was duly accepted by the respondent and a sum of Rs. 2 lacs has been disbursed as full & final settlement amount to the petitioner.

5. On merits, it is submitted that the respondent company had purchased the plant and machines from its erstwhile previous owner M/s Prithi Kitchen. As per the agreement, the respondent was ready to retain the petitioner along-with other workers, in consequences of conciliation meetings held and settlement arrived between the respondent company and workers on 15.02.2019. As per the settlement, it was agreed upon that the workers who were interested to work shall resign from the previous company after receiving all the financial benefits and thereafter join the respondent company along-with other workers, as such, the petitioner had joined as a fresh recruit with the respondent company since 26.02.2019, after receiving full & final financial benefits from the previous company i.e M/s Prithi Kitchen. However, the workers who were not interested to work with the respondent company shall get three months' notice period wages, retrenchment benefits, as per section 25-F of the Act, gratuity and all the financial benefits, as are applicable to them at the time of full and final settlement. With the passage of time, the respondent company found it difficult to run the unit, as the situation deteriorated within no time and the production had gone down drastically. The respondent company offered its employees/workers to transfer some of them to some other unit but the petitioner was not ready and through their representatives recognized workers union (INTUC) represented by its office bearers under the guidelines of the Baba Hardeep Singh entered into a settlement with the authorized representatives of the respondent company on 20.02.2020. As per this settlement, the respondent company had agreed to pay the consolidate sum of Rs. 2,00,000/- (Two Lacs) to each and every worker. It is denied that the petitioner was, in any manner, forced to tender the resignation. It is also denied that the signatures of the petitioner on blank papers were obtained. In fact, the petitioner and other co-workers had voluntarily tendered their resignation as per the settlement dated 20.02.2020 and received the full & final financial dues as applicable to them as per the settlement. It is, therefore prayed, that the claim petition may kindly be dismissed in the interest of justice.

6. While filing rejoinder, the petitioner controverted the averments made thereto in the reply filed by respondent and reaffirmed and reiterated those raised in the claim petition. It is averred that the resignation was taken from the petitioner forcibly, illegally and also by misrepresentation of the true facts. It is denied that the present reference is not legal reference and the claim petition was filed beyond the terms of reference.

7. On elucidating the pleading of parties, the following issues were struck down by this Tribunal, for its final determination, vide zimni order dated 23.09.2022, which reads as under:—

1. Whether the demand of the petitioner for her reinstatement in service before the management of respondent company after submitting her resignation as per settlement dated 20.02.2020 arrived at between the respondent management and petitioner union, after receiving full and final amount of Rs. 2 Lakh as per settlement, is improper and unjustified? If yes, what relief the petitioner is entitled to and its effect? . . .*OPP*.

2. Whether the claim petition is neither competent nor maintainable in the present form, as alleged? . . .*OPR*.

3. Relief

8. Henceforth, parties to the dispute were asked to adduce oral as well as documentary evidence in support of their respective claims or issues so framed.

9. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

10. For the reasons to be recorded hereinafter, while discussing issues for determination, my findings on the point-wise issues, are as under:

Issue No.1	:	No
Issue No.2	:	No
Relief	:	Reference answered in negative and the claim petition is ordered to be dismissed, as per operative part of award.

### REASONS FOR FINDINGS

#### ISSUE NO.1.

11. In order to substantiate its case, the petitioner had appeared into the witness dock as (PW-1) and tendered into evidence his sworn in affidavit (PW-1/A), wherein he had categorically reiterated almost all the averments, made thereto in the claim petition.

12. In cross-examination, the petitioner had testified that initially he was engaged with M/s Prithi Kitchen. He further admitted that there was a union in the M/s Prithi Kitchen. He had feigned ignorance that M/s Prithi Kitchen was taken over by the M/s Penguin Electronics Ltd. He admitted that on the directions of the Hon'ble High Court, the matter was referred to the Labour Officer, where full & final settlement was paid by Prithi Kitchen. He again admitted to have joined as fresh hand with Penguin Ltd. He further admitted that he had not completed one year service with the Penguin Ltd. He again admitted that he was paid salary for no work. He feigned ignorance that the dispute was raised before the Labour Officer. She again admitted that a sum of Rs. 2,00,000/- (two lakhs) were paid by the Penguin Ltd. towards settlement. He denied that he tendered his resignation and received full and final settlement. He further denied that he tendered resignation out of her free will and volition. He had also denied that after receiving full & final settlement, he is not entitled for re-instatement.

13. To refute the allegations of the petitioner, the respondent had examined Shri Surender Singh Bisht, presently posted as Labour Officer, Baddi as (RW-1), who proved on record the settlement arrived at between the parties dated 20.02.2020 registered on 25.02.2020 (R-1) and settlement between the parties dated 15.02.2019 (R-2).

14. In cross-examination, he admitted that the worker is not a signatory to settlement (R-1). Volunteered that it was signed by their representatives. He further admitted that the settlement (R-2) was also signed by the union representatives.

15. Smt. Shalu Chandel, Manager (HR) of respondent company appeared into the witness box as (RW-2), who had tendered into evidence her sworn in affidavit (RW-2/A), wherein she also reiterated almost all the averments as made thereto in the reply. She also tendered into evidence the letter of appointment (R-3), payment voucher (R-4), registration letter (R-5), reply to demand notice (R-6) and letter Mark RX-1, on record.

16. In cross-examination, the respondent witness duly admitted that there was a business transfer agreement executed between the two giants i.e M/s Prithi Kitchen and M/s Penguin Electronics Ltd., in the year 2019. She admitted that there was an ascertaining of these settlements arrived at before the Conciliation-cum-Labour Officer under section 12(3) and 18(1) were executed between the management and the workers representatives/union. She admitted that the workers are not a signatory to the aforesaid settlements. She denied that the respondent management had approached the Government for closure of the company under section 25-FFF of the Act, in the year 2020. She further denied that the resignation of the workers were obtained forcibly by the

management and the workers union. She denied that the acceptance of the resignation was not conveyed to the workmen. Volunteered that the workers put their signatures on the payment voucher out of their free will and consent and again submitted resignation free and voluntarily made. She denied that the management had put the pressure on the workers.

17. This is the entire oral as well as documentary evidence adduced from the side of the parties.

18. Ms. Neetu Sharma, Advocate and Shri J.C Bhardwaj, Ld. Counsel and AR for the petitioner has contended with all vehemence that the settlement was neither signed by the workers personally nor they have authorized anyone to sign the settlement on their behalf in this regard. Since, there is no authorization as per the prescribed performa F has been proved by the respondent, hence, the settlement arrived at between the representatives of the workmen and management is not a legal settlement executed between the parties. They further argued that the settlement has been signed between the management and some of the representatives namely Shri Mukesh and Shri Yashpal under section 18(1) of the Act, hence, this settlement is not at all binding on the petitioner and it is only applicable on the signatory of the settlement. The management of the respondent company has not produced the best evidence by not examining the signatories i.e Shri Mukesh and Shri Yashpal to the settlement, which could go to show that under which capacity they have signed the settlement, hence, the settlement executed, if any, ultimately required to be set aside and quashed. She also argued that the settlement amount, if any, is proved against the workers, the same can be deducted at the rate of 25% per month from the salary of the workers. She argued that the payment of three months salary is required to be paid to each workmen as more than 100 workmen were working at the time of so called settlement. It is not at all understandable that why the respondent paid Rs. 2,00,000/- (two lakhs) to the petitioner without any valid conciliation effected inter se the parties, which clearly shows that the respondent management had resorted to an unfair labour practice and victimization of the petitioner/workers. She argued that if the workers have submitted their resignation voluntarily then what would be the need for the settlement and with whom and why these settlements were not signed before the Labour-cum-Conciliation Officer. There is no acceptance of the resignation in these settlements. There is no proof placed on record that the settlement amount has been withdrawn by the workmen. It is argued that one hand the company is alleging the amicable settlement but in other hand tendering of resignation, therefore the present case is clear cut example of unfair labour practice as the resignation and settlements were arrived in the wake that the company is being closed. There is a bulk resignations obtained under section 25-FFF of the Act, however, the company is still in working condition, hence, the same amounts to an illegal retrenchment. They prayed that the petitioner be reinstated in service with all consequential service benefits including full back-wages in the interest of justice.

19. Ld. Counsel and AR for the petitioner also placed reliance on the case law **M/s Oswal Agro Ltd. Vs. Oswal Agro worker Union 2005 LLR 305 (SC) and Workmen of Minakshi Mill Vs. Minakshi Mill Ltd. And another 1992 LLR 481 (SC)**.

20. **Per contra**, Shri Rajiv Sharma, Ld. Counsel for the respondent vigorously urged that the provisions of section 25-N of the Act would not be applicable in the present facts and circumstances of the case as the workers have not been in continuous service for not less than one year and they had not been retrenched by the respondent employer. It is not at all a case of retrenchment, rather he argued that it is the simplicitor case of tendering resignation out of free will and consent. After acceptance of the resignation a sum of Rs. 2,00,000/- (two lakhs) as per settlement has been paid to the petitioner. He further argued that it is quite apparent from the reference received from the appropriate government that each and every workers have been paid Rs. 2,00,000/- (two lakhs) settlement amount for less than one year of service. The documentary evidence filed by the respondent would clearly established that it is a case of clear cut tendering of

resignation and not retrenchment. It is settled law that once the resignation is tendered and the same has been accepted by the appropriate authority, thereafter the same cannot be withdrawn. It is not established on record that had it been a case of obtaining signatures on blank papers or tendering resignation forcibly then when the petitioner had remained slumbered over the matter for such a pretty long period, till the raising of the demand notice. Neither the petitioner reported the matter to the Police nor brought the same to the notice of the Labour Commissioner or the higher authorities. The plea of submitting bulk resignations is also not tenable. The entire case raised from the side of the petitioner is crystal clear from the tone and tenor of the reference itself that after submitting the resignation and settlement arrived between the parties dated 20.02.2020 and after receiving full & final amount of Rs. 2,00,000/- (two lakhs) as per clause of the said agreement is proper and fair. Therefore, he prayed for the dismissal of the claim petition. He also placed reliance on the case law **Globe Ground India Employees Vs. Lufthansa German Airlines decided on 23.4.2019.**

21. I have given my best anxious considerable thought to the respective submissions of the Learned Counsel for the parties and have also scrutinized the entire case record with minute care, caution and circumspection.

22. Thus, from a careful and meticulous examination of the entire case record, it is manifestly clear on record that the petitioner was engaged as a Technician with a erstwhile previous company i.e M/s Prithi Kitchens. It is proved to the satisfaction of the Court that the petitioner had worked as such till 15.02.2019 and thereafter M/s Prithi Kitchen was taken over by the respondent company. It is an admitted case of both the parties that the petitioner was engaged as fresh hand/recruited with the respondent company on 26.02.2019 and had worked as such till 20.02.2020. It is alleged that the signatures of the petitioner were obtained on some blank papers, therefore the alleged resignation is nothing but has been obtained forcibly by the respondent. On the other hand, the respondent had asserted that as per agreement executed between the previous owner i.e M/s Prithi Kitchen, the respondent was ready to retain the workers and engage them as fresh recruit/hands. The petitioner was engaged as fresh hand and worked as such for a period of approx. 9-10 months but she was not at all interested to work further, therefore, conciliation proceedings were held and settlement was arrived between the parties and full and final settlement amount was paid to the petitioner.

23. Admittedly, there were as many as two settlements arrived on record, firstly under section 12(3) (R-2) and under section 18(1) (R-1), which were produced on record. On behalf of the petitioner no documentary proof has been supplied on record. Both these settlements (R-1) and (R-2) produced on record were duly registered with the Labour Officer, as proved on record. Though, the petitioner had arrayed the previous company M/s Prithi Kitchens as one of the contesting respondent, but, Ld. Counsel for the petitioner vide separate statement stated at the bar that the petitioner do not want any substantive relief against the previous owner and there by the petitioner had restricted her claim to the contesting respondent i.e M/s Penguin Electronics. Similar is the situation arises from the reference received from the appropriate government. In the reference there is mention of the contesting respondent M/s Penguin Electronics only and M/s Prithi Kitchens is not a party to the reference received from the appropriate government. Moreso, vide separate statements Ld. Counsel/AR for the petitioner did not press the claim petition against the respondent M/s Prithi kitchen Appliances Ltd. The statement is placed on record. As per the settlement arrived at between the parties, it is agreed upon that all the workers would get the retrenchment compensation along-with other benefits such as one month's salary, gratuity, leave encashment etc. It is also asserted that all the workers who are willing to do work will submit their resignation and will get all the financial benefits from the previous owner M/s Prithi Kitchen. Another settlement arrived at between the parties dated 20.02.2020 (R-1), which was executed between the respondent management and representatives of the workers union under theegis of INTUC President Shri Hardeep Baba whereby it was agreed that all the workers who are not willing to work shall tender

their resignations which will be accepted by the respondent management and thereafter the respondent management shall pay full & final settlement amount to each and every worker.

24. Hence, as per settlement Ex-R-1 between the parties under section 18(1) of the Act which has been executed between the parties to which the representative of the workmen as well as representatives of the management put their signatures and witnesses by INTUC President Shri Hardeep Baba. The aforesaid settlement was duly registered with the Labour Officer.

25. Before proceeding further, it is apposite to mention the relevant provisions of the Act. Therefore, I deem it proper to reproduce section 18 of the Act, which reads as under:

**“Persons on whom settlements and awards are binding: (1) A settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.**

**(2) [Subject to the provisions of sub-section (3), an arbitration award] which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.]**

**(3) A settlement arrived at in the course of conciliation Proceedings under this Act [or an arbitration award in a case where a notification has been issued under sub-section (3A) of section 10A] or [an award [of a Labour Court, Tribunal or National Tribunal] which has become enforceable] shall be binding on—**

**(a) all parties to the industrial dispute;**

**(b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board, [arbitrator,] 8\*[Labour Court, Tribunal or National Tribunal], as the case may be, records the opinion that they were so summoned without proper cause;**

**(c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;**

**(d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.”**

26. It is crystal clear from the perusal of the aforesaid provision of law that once the settlement is arrived at between the parties otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement. Time and again it is argued that the said agreement was signed by one Shri Mukesh Kumar and Shri Yash Pal, who were not duly authorized by the petitioner, they were not examined. So far as concerning the settlement arrived at between the parties and bound on all the parties, it is settled proposition of law that settlement which was arrived at by an agreement between the company and its employees or workmen represented by their mazdoor/Trade Union only and it was arrived at otherwise than in the course of a conciliation proceeding. Accordingly, such bipartite settlement was binding in terms of section 18(1) of the Act. A settlement arrived at in the course of conciliation proceedings or otherwise than will be binding on all the workmen. The Court shall presume that the settlement arrived at otherwise than in the

course of conciliation proceedings is just and fair. It becomes binding on all the parties and all the persons who have been subsequently effected by the said settlement in that establishment. I have carefully scrutinized the settlement (P-1) and is of the considered opinion that the said settlement is fair and legal and there is no illegality in the same.

27. Next comes the incriminating piece of evidence i.e resignation letter dated 21.02.2020 (R-5) produced from the side of the respondent whereby the petitioner in his/her own handwriting had written that she is not in position to continue further with the job and thereby tendered her resignation for acceptance. The resignation is free from any kind of internal or external pressure. The said resignation has duly been accepted by the respondent. Moreso, in the payment voucher (R-4), the petitioner had by making endorsement with her own handwriting that she had received full & final settlement amount of Rs. 2,00,000/- (two lakhs) and now nothing is due in her favour from the respondent company. Another limb of the argument advanced before me by the respondent that during the course of arguments, it is argued that the signatures of the petitioner were obtained on blank papers. It is also argued that some of the workers were asked to sign in the closed dark room. Though, this fact has neither been pleaded nor proved on record. The onus of proving the alleged fact lies on the shoulder of the petitioner. The petitioner has miserably failed to prove by leading cogent, clear and clinching evidence that her signatures were either obtained in a dark room or on blank papers. It is settled law that a fact pleaded and not proved and similarly a fact proved and not pleaded are of no consequences. Here, the situation is different as the obtaining of signatures on blank paper that is too in dark room is neither pleaded nor proved. Consequently, a plea which is neither pleaded nor proved assumes no significance in the eyes of law. Such a plea/contention raised at bar is devoid of force and not tenable under law. It is also argued that some of the workers are illiterate and not in position to evaluate the consequences of their signatures and so on. It is satisfactorily proved on record that the submission of resignation in her own handwriting would not tantamount to any kind of tantrum as contemplated before me by the Ld. Counsel for the petitioner by citing lot of excuses. To my mind all these pleas are not sustainable and merely proved to be lame excuses. I failed to understand that if it is so than what was the occasion for the petitioner not to raise her voice for obtaining signatures on the blank paper and that in the dark closed room. After the acceptance of the resignation, the petitioner was duly paid full & final settlement amount of Rs. 2,00,000/- (two lakhs) in terms of settlement arrived at between the parties (R-1), on record. As a matter of fact, the settlement arrived at between the parties (R-1), tendering of resignation (R-5) and its acceptance by the respondent management, payment of Rs. 2,00,000/- (two lakhs) by the respondent management as full and final settlement to the petitioner are form natural corollary of the sequence of events which clearly established that the petitioner who had worked with the respondent company for less than one year was paid full & final amount of Rs. 2,00,000/- (two lakhs) as compensation. The entire averments averred in the resignation dated 21.2.2020 (R-5), nowhere depicts that it is a case of forced resignation. The resignation tendered by the petitioner is out of her free will and volition.

28. Their Lordship of Hon'ble High Court of Bombay in a case titled as ***Laffans India Pvt. Ltd. vs Pancham Singh Rawat And Another, Decided on 30 August, 2002, with equivalent citation 2003 (96) FLR 310, 2002 (4) MHLJ 470***, held as hereunder:

**“In my opinion, the award of the Labour Court cannot stand scrutiny even for a minute. No reasonable man could have come to the conclusion to which the Labour Court has come to, though the resignation letter was true and though the signature was admitted by the respondent workman and though he had received letter from the petitioner company that his resignation was accepted, it could be said that it was a forced resignation. It is a fact that from 17th December 1993 or from 22nd December 1993, the respondent workman at no point of time had complained to any authority under the law or to anyone including his union that he**

was forced to resign from employment or that he was forced to sign some blank papers and that such blank papers were used as his resignation letter. As rightly observed by the Labour Court in its earlier part of the Award that even in the demand letter submitted by the respondent workman after a period of 15 months, he did not whisper that his resignation was a forced resignation. It is absolutely unbelievable that if a workman is forced to resign he would keep quiet for a period of 15 months and would not take any action of any nature to protest against the force used by the employer to obtain such resignation letter. The delay of 15 months in raising demand itself is a crucial factor to discard totally the false theory of the workman that he was forced to resign or that his signature was taken on the blank papers or that such papers are used as resignation letter. In spite of more than sufficient material and evidence on record and though the Labour Court was satisfied about the factual aspect of the resignation I fail to understand how in the subsequent paragraphs of the award, the Labour Court has changed its flow of the award and reasoning for an resignation and come to a conclusion that the resignation was a forced resignation merely because the name of the respondent workman was not in the FIR. The finding of the Labour Court, therefore, is totally baseless and perverse and the same deserves to be quashed and set aside. Since the respondent workman had voluntarily resigned, there was no question of holding any domestic enquiry to punish the delinquent workman. It was entirely for the employer to accept resignation to simply get rid of the workman to buy peace and to save from the cost of enquiry or to hold an enquiry and punish. No inference of any nature can be drawn from the fact that the resignation was accepted as a short cut. In my opinion, there is nothing wrong or illegal or improper on the part of any employer to let his workman resign and leave even after the charge of a misconduct to avoid litigation and to avoid any stigmatic order which would also be not in the interest of the workman. It is not compulsory for the employer to hold an enquiry and punish his employee if the latter peacefully and voluntarily leaves the employment. Often such short cuts are also beneficial for both. There was absolutely no valid ground and justification for the Labour Court to hold that the resignation was a forced one and therefore, amounted to illegal termination to granting an amount of Rs. 1,25,000/- as compensation in lieu of reinstatement. The Labour Court has rightly commented that the conduct of the workman was not like a man of ordinary prudence. Any man of ordinary prudence, even a peon like the respondent workman would raise an alarm or protest as soon as he had received a letter from respondent company that his resignation was accepted. He would have immediately approached some authority or his union or the Government labour officer to say that he had never resigned but his resignation was taken forcibly or that his signature was taken on blank papers. In spite of its correct appreciation of evidence by the Labour Court, I fail to understand how the Labour Court has in the later portion of its award accepted the theory of forced resignation. There is absolutely no merit in the case of the workman.”

29. Bearing in mind the attendant facts and circumstances of the case as well oral and the documentary evidence as well and after considering the final arguments, my inference is that the services of the workman have not been terminated illegally rather the petitioner had submitted resignation voluntarily.

30. Moreso, during the course of arguments, it is argued on behalf of the Ld. Counsel for workman that resignation can be withdrawn at any time, the withdrawal of the resignation by the claimant is a valid and he continues to be in service of the management. In my opinion this argument is on the fact of it false since the resignation of the claimant dated 21.02.2020, was duly accepted on the same day and it has become final and it cannot be withdrawn on subsequent date.



Here, I am supported by Hon'ble Supreme Court judgment in **Raj Kumar Vs. UOI, AIR 1969 SC 180, decided on 18.04.1968** wherein it was held that :

**"when a person has tendered his resignation his services clearly stands terminated from the date on which the letter of resignation is accepted by the authority and in the absence of any law or rule governing the conditions of his service to the contrary, it will not be open to the person to withdraw his resignation after it was accepted by the authority."**

31. I am also supported by Hon'ble High Court of Delhi in **Deepak Kumar Bali Vs. HMT, (2009) III LLJ**, wherein it has been held as under:

**"the resignation letter was considered as not spontaneous. In the present case it is not in dispute that the job of the appellant was transferable. The appellant was transferred to Pinjore but refused to join the new station and instead made representations against the same. Since the appellant did not join there was no option left with the respondent management but to start disciplinary proceedings. A very important fact to be noted is that at no stage the appellant challenged the transfer order in any legal proceedings. At the stage when the disciplinary proceedings were reaching a conclusion against the appellant, the appellant in his wisdom thought it appropriate to resign and go out of service. It was the option with the appellant to either challenge the transfer order or to contest the disciplinary proceedings but instead of challenging the transfer order the chose to resign. His resignation was accepted as the management as the management also in its wisdom thought it appropriate to let go of him and all his dues were paid. The dues sent by the respondent Management were appropriated by the appellant. The appellant having appropriated the dues, thereafter sought to rake up the issue of the resignation being under duress or pressure."**

32. I also placed reliance in **Gujarat State Road Transport Corporation Vs. Shankarbhai Maljibhai Sandhwa, 2006 LLR 281**, it was held that :

**"the resignation after it is accepted again be withdrawn and once the resignation is accepted, no relationship of master and servant existed thereafter. "**

33. Similarly, reliance is placed on **Rukshana Eisa Vs. Union of India & Ors., 2008 LLR 86 of Bombay High Court**, wherein it was held that :

**"after valid acceptance it is not permissible to withdraw ID No. 501/06 9/10 the resignation."**

34. I am also fortified by the decision of the Hon'ble Gujarat High Court in **H.M.P Engineers Ltd. Fatehnagar Vs. R. Kashi Naidu, 2010 LLR 252**, wherein it is held that :

**"once the workman voluntarily resigned on accepting voluntary Separation Scheme, and it being duly accepted, he cannot later on withdraw his option."**

35. For the foregoing reasons, as a binding precedent as well the distinct facts and circumstances of the case and also in view of above stated reasons, it is held that the workman/petitioner has voluntarily resigned from service and she has not been terminated illegally by the management. The plea taken from the side of the petitioner that he was forced to tender his resignation is also not tenable under law as she has failed to place/prove on record any complaint to the authorities in this regard. Accordingly, this issue is answered in negative.

36. In support of this issue no evidence has been led by the respondent, which could go to show that as to how the present claim petition is neither competent nor maintainable in the present form especially when the same has been presented before the Court in pursuance to the reference notification received from the appropriate government. The issue in question is answered in negative.

*RELIEF*

37. As a Sequitor, in view of my above discussion, evaluation and findings on issues no.1& 2, **the merits of the claim petition of the petitioner deserves dismissal and the same is hereby dismissed.** Consequently, the present reference is answered in negative as it is held that the workman/petitioner has voluntarily resigned from service and she has not been terminated illegally. She is not entitled for any sort of relief from this Court/Tribunal.

38. Let a copy of this award be sent to the appropriate Government for publication as per law. File be consigned to the record room after necessary compliance by Ahlmad.

Ordered accordingly.

Announced in the open Court today this 16th day of October, 2023.

Sd/-

(KRISHAN KUMAR)  
*Presiding Judge,*  
*Industrial Tribunal-cum-Labour Court, Shimla.*

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**IN THE COURT OF SH. KRISHAN KUMAR, PRESIDING JUDGE, HP INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Reference Number : 72 of 2021

Instituted on : 10.03.2021

Decided on : 16.10.2023

Sh. Sanjay Kumar, s/o Sh. Bajir Chand, r/o Village & P.O. Bhanala, Tehsil Shahpur,  
District Kangra, H.P. . .Petitioner.

*VERSUS*

1. The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P.

2. M/s Preethi Kitchen Appliances Pvt. Ltd., (Unit-III), Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. Through its Managing Director. . .Respondents.

**Reference petition under section 10 of the Industrial Dispute Act, 1947**

For the Petitioner : Ms. Neetu Sharma, Advocate  
and Shri J.C. Bhardwaj, AR.

For the Respondents : Sh. Rajeev Sharma, Advocate.

**AWARD**

The following reference petition has been, received from the Appropriate Government vide notification dated 25.02.2021, under section 10 of the Industrial Dispute Act, 1947 (**hereinafter referred to be as the Act**), for its legal adjudication, as under:

**“Whether the demand of Sh. Sanjay Kumar, s/o Sh. Bajir Chand, r/o Village & P.O. Bhanala, Tehsil Shahpur, District Kangra, H.P. for his reinstatement in service before the management i.e. the Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?” and if not its effect?”**

2. Material facts necessary for the disposal of present reference petition as described in the statement of claim are thus that the petitioner was engaged as a Technician with M/s Prithi Kitchen Appliances Pvt. Ltd. (unit III) Village Sallewal Bharatgarh Road, Tehsil Nalagarh (**hereinafter to be referred as M/s Prithi Kitchen**) during May, 2012 and remained as such till his illegal removal from the company on 15.02.2019. As a matter of record, M/s Prithi Kitchen was taken over by the M/s Penguin Electronics Ltd. and the petitioner was pressurized by M/s Prithi Kitchen to apply for fresh recruitment with respondent and as such on 26.02.2019, the petitioner applied to the respondent company and remained as such, till he was illegally terminated by the respondent company (Penguin Electronics) on 20.02.2020 on the ground that the company is being closed. The very action of the respondent to terminate the services of the petitioner is biased, unfair and unreasonable. The respondent management had forcibly and illegally obtained the signatures of the petitioner on some blank papers and thereafter started causing interference and hindrances in the joining of the duty by saying that there is no necessity, as the company is going to be closed. The petitioner had requested the respondent company to allow him to join his duties but to no avail. The termination of the petitioner from service without affording any opportunity and conducting any domestic enquiry is illegal and not sustainable in the eyes of law.

3. In the footnote of the petition, the following prayer clause has been appended, which reads as under:

**“It is therefore prayed that this Hon’ble Court may kindly be pleased to declare the so called settlement, the coercive, resignation and termination null, void and inoperative by the respondent on 20.2.2020 and allow the petition of the petitioner /claimant thereby directing the respondent/management to reinstate the services of the claimant/petitioner in the respondent company with full back-wages, seniority and other consequential service benefits throughout with costs.”**

4. The lis was resisted and contested by respondent by filing written reply on *inter-alia* preliminary objections of maintainability, full and final settlement arrived at between the parties, the petitioner had not approached the Court with clean hands, claim is bad in the eyes of law, not a legal reference, mis-joinder of necessary parties and the petitioner has tendered his resignation, which was duly accepted by the respondent and a sum of Rs. 2 lacs has been disbursed as full & final settlement amount to the petitioner.

5. On merits, it is submitted that the respondent company had purchased the plant and machines from its erstwhile previous owner M/s Prithi Kitchen. As per the agreement, the respondent was ready to retain the petitioner along-with other workers, in consequences of conciliation meetings held and settlement arrived between the respondent company and workers on 15.02.2019. As per the settlement, it was agreed upon that the workers who were interested to work shall resign from the previous company after receiving all the financial benefits and thereafter join the respondent company along-with other workers, as such, the petitioner had joined as a fresh recruit with the respondent company since 26.02.2019, after receiving full & final financial benefits from the previous company i.e M/s Prithi Kitchen. However, the workers who were not interested to work with the respondent company shall get three months' notice period wages, retrenchment benefits, as per section 25-F of the Act, gratuity and all the financial benefits, as are applicable to them at the time of full and final settlement. With the passage of time, the respondent company found it difficult to run the unit, as the situation deteriorated within no time and the production had gone down drastically. The respondent company offered its employees/workers to transfer some of them to some other unit but the petitioner was not ready and through their representatives recognized workers union (INTUC) represented by its office bearers under the guidelines of the Baba Hardeep Singh entered into a settlement with the authorized representatives of the respondent company on 20.02.2020. As per this settlement, the respondent company had agreed to pay the consolidate sum of Rs. 2,00,000/- (Two Lacs) to each and every worker. It is denied that the petitioner was, in any manner, forced to tender the resignation. It is also denied that the signatures of the petitioner on blank papers were obtained. In fact, the petitioner and other co-workers had voluntarily tendered their resignation as per the settlement dated 20.02.2020 and received the full & final financial dues as applicable to them as per the settlement. It is, therefore prayed, that the claim petition may kindly be dismissed in the interest of justice.

6. While filing rejoinder, the petitioner controverted the averments made thereto in the reply filed by respondent and reaffirmed and reiterated those raised in the claim petition. It is averred that the resignation was taken from the petitioner forcibly, illegally and also by misrepresentation of the true facts. It is denied that the present reference is not legal reference and the claim petition was filed beyond the terms of reference.

7. On elucidating the pleading of parties, the following issues were struck down by this Tribunal, for its final determination, vide zimni order dated 23.02.2023, which reads as under:

1. Whether the demand of the petitioner for his reinstatement in service before the management of respondent company after submitting his resignation as per settlement dated 20.02.2020 arrived at between the respondent management and petitioner union, after receiving full and final amount of Rs. 2 Lakh as per settlement, is improper and unjustified? If yes, what relief the petitioner is entitled to and its effect? . . .*OPP*.
2. Whether the claim petition is neither competent nor maintainable in the present form, as alleged? . . .*OPR*.
3. Relief

8. Henceforth, parties to the dispute were asked to adduce oral as well as documentary evidence in support of their respective claims or issues so framed.

9. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

10. For the reasons to be recorded hereinafter, while discussing issues for determination, my findings on the point-wise issues, are as under

Issue No.1	:	No
Issue No.2	:	No
Relief	:	Reference answered in negative and the claim petition is ordered to be dismissed, as per operative part of award.

### REASONS FOR FINDINGS

#### *ISSUE NO.1*

11. In order to substantiate its case, the petitioner had appeared into the witness dock as (PW-1) and tendered into evidence his sworn in affidavit (PW-1/A), wherein he had categorically reiterated almost all the averments, made thereto in the claim petition.

12. In cross-examination, the petitioner had testified that initially he was engaged with M/s Prithi Kitchen. He further admitted that there was a union in the M/s Prithi Kitchen. He had feigned ignorance that M/s Prithi Kitchen was taken over by the M/s Penguin Electronics Ltd. He admitted that on the directions of the Hon'ble High Court, the matter was referred to the Labour Officer, where full & final settlement was paid by Prithi Kitchen. He again admitted to have joined as fresh hand with Penguin Ltd. He further admitted that he had not completed one year service with the Penguin Ltd. He again admitted that he was paid salary for no work. He feigned ignorance that the dispute was raised before the Labour Officer. He again admitted that a sum of Rs. 2,00,000/- (two lakhs) were paid by the Penguin Ltd. towards settlement. He denied that he tendered his resignation and received full and final settlement. He further denied that he tendered resignation out of his free will and volition. He had also denied that after receiving full & final settlement, he is not entitled for re-instatement.

13. To refute the allegations of the petitioner, the respondent had examined Shri Surender Singh Bisht, presently posted as Labour Officer, Baddi as (RW-1), who proved on record the settlement arrived at between the parties dated 20.02.2020 registered on 25.02.2020 (R-1) and settlement between the parties dated 15.02.2019 (R-2).

14. In cross-examination, he admitted that the worker is not a signatory to settlement (R-1). Volunteered that it was signed by their representatives. He further admitted that the settlement (R-2) was also signed by the union representatives.

15. Smt. Shalu Chandel, Manager (HR) of respondent company appeared into the witness box as (RW-2), who had tendered into evidence her sworn in affidavit (RW-2/A), wherein she also reiterated almost all the averments as made thereto in the reply. She also tendered into evidence the letter of appointment (R-3), payment voucher (R-4), registration letter (R-5), reply to demand notice (R-6) and letter Mark RX-1, on record.

16. In cross-examination, the respondent witness duly admitted that there was a business transfer agreement executed between the two giants i.e M/s Prithi Kitchen and M/s Penguin

Electronics Ltd., in the year 2019. She admitted that there was an ascertaining of these settlements arrived at before the Conciliation-cum-Labour Officer under section 12(3) and 18(1) were executed between the management and the workers representatives/union. She admitted that the workers are not a signatory to the aforesaid settlements. She denied that the respondent management had approached the Government for closure of the company under section 25-FFF of the Act, in the year 2020. She further denied that the resignation of the workers were obtained forcibly by the management and the workers union. She denied that the acceptance of the resignation was not conveyed to the workmen. Volunteered that the workers put their signatures on the payment voucher out of their free will and consent and again submitted resignation free and voluntarily made. She denied that the management had put the pressure on the workers.

17. This is the entire oral as well as documentary evidence adduced from the side of the parties.

18. Ms. Neetu Sharma, Advocate and Shri J.C Bhardwaj, Ld. Counsel and AR for the petitioner has contended with all vehemence that the settlement was neither signed by the workers personally nor they have authorized anyone to sign the settlement on their behalf in this regard. Since, there is no authorization as per the prescribed performa F has been proved by the respondent, hence, the settlement arrived at between the representatives of the workmen and management is not a legal settlement executed between the parties. They further argued that the settlement has been signed between the management and some of the representatives namely Shri Mukesh and Shri Yashpal under section 18(1) of the Act, hence, this settlement is not at all binding on the petitioner and it is only applicable on the signatory of the settlement. The management of the respondent company has not produced the best evidence by not examining the signatories i.e Shri Mukesh and Shri Yashpal to the settlement, which could go to show that under which capacity they have signed the settlement, hence, the settlement executed, if any, ultimately required to be set aside and quashed. She also argued that the settlement amount, if any, is proved against the workers, the same can be deducted at the rate of 25% per month from the salary of the workers. She argued that the payment of three months salary is required to be paid to each workmen as more than 100 workmen were working at the time of so called settlement. It is not at all understandable that why the respondent paid Rs. 2,00,000/- (two lakhs) to the petitioner without any valid conciliation effected interse the parties, which clearly shows that the respondent management had resorted to an unfair labour practice and victimization of the petitioner/workers. She argued that if the workers have submitted their resignation voluntarily then what would be the need for the settlement and with whom and why these settlements were not signed before the Labour-cum-Conciliation Officer. There is no acceptance of the resignation in these settlements. There is no proof placed on record that the settlement amount has been withdrawn by the workmen. It is argued that one hand the company is alleging the amicable settlement but in other hand tendering of resignation, therefore the present case is clear cut example of unfair labour practice as the resignation and settlements were arrived in the wake that the company is being closed. There is a bulk resignations obtained under section 25-FFF of the Act, however, the company is still in working condition, hence, the same amounts to an illegal retrenchment. They prayed that the petitioner be reinstated in service with all consequential service benefits including full back-wages in the interest of justice.

19. Ld. Counsel and AR for the petitioner also placed reliance on the case law **M/s Oswal Agro Ltd. Vs. Oswal Agro worker Union 2005 LLR 305 (SC) and Workmen of Minakshi Mill Vs. Minakshi Mill Ltd. And another 1992 LLR 481 (SC)**.

20. *Per contra*, Shri Rajiv Sharma, Ld. Counsel for the respondent vigorously urged that the provisions of section 25-N of the Act would not be applicable in the present facts and circumstances of the case as the workers have not been in continuous service for not less than one year and they had not been retrenched by the respondent employer. It is not at all a case of

retrenchment, rather he argued that it is the simplicitor case of tendering resignation out of free will and consent. After acceptance of the resignation a sum of Rs. 2,00,000/- (two lakhs) as per settlement has been paid to the petitioner. He further argued that it is quite apperant from the reference received from the appropriate government that each and every workers have been paid Rs. 2,00,000/- (two lakhs) settlement amount for less then one year of service. The documentary evidence filed by the respondent would clearly established that it is a case of clear cut tendering of resignation and not retrenchment. It is settled law that once the resignation is tendered and the same has been accepted by the appropriate authority, thereafter the same cannot be withdrawn. It is not established on record that had it been a case of obtaining signatures on blank papers or tendering resignation forcibly then why the petitioner had remained slumbered over the matter for such a pretty long period, till the raising of the demand notice. Neither the petitioner reported the matter to the Police nor brought the same to the notice of the Labour Commissioner or the higher authorities. The plea of submitting bulk resignations is also not tenable. The entire case raised from the side of the petitioner is crystal clear from the tone and tenor of the reference itself that after submitting the resignation and settlement arrived between the parties dated 20.02.2020 and after receiving full & final amount of Rs. 2,00,000/- (two lakhs) as per clause of the said agreement is proper and fair. Therefore, he prayed for the dismissal of the claim petition. He also placed reliance on the case law **Globe Ground India Employees Vs. Lufthansa German Airlines decided on 23.4.2019.**

21. I have given my best anxious considerable thought to the respective submissions of the Learned Counsel for the parties and have also scrutinized the entire case record with minute care, caution and circumspection.

22. Thus, from a careful and meticulous examination of the entire case record, it is manifestly clear on record that the petitioner was engaged as a Technician with a erstwhile previous company i.e M/s Prithi Kitchens. It is proved to the satisfaction of the Court that the petitioner had worked as such till 15.02.2019 and thereafter M/s Prithi Kitchen was taken over by the respondent company. It is an admitted case of both the parties that the petitioner was engaged as fresh hand/recruitted with the respondent company on 26.02.2019 and had worked as such till 20.02.2020. It is alleged that the signatures of the petitioner were obtained on some blank papers, therefore the alleged resignation is nothing but has been obtained forcibly by the respondent. On the other hand, the respondent had asserted that as per agreement executed between the previous owner i.e M/s Prithi Kitchen, the respondent was ready to retain the workers and engage them as fresh recruit/hands. The petitioner was engaged as fresh hand and worked as such for a period of approx. 9-10 months but he was not at all interested to work further, therefore, conciliation proceedings were held and settlement was arrived between the parties and full and final settlement amount was paid to the petitioner.

23. Admittedly, there were as many as two settlements arrived on record, firstly under section 12(3) (R-2) and under section 18(1) (R-1), which were produced on record. On behalf of the petitioner no documentary proof has been supplied on record. Both these settlements (R-1) and (R-2) produced on record were duly registered with the Labour Officer, as proved on record. Though, the petitioner had arrayed the previous company M/s Prithi Kitchens as one of the contesting respondent, but, Ld. Counsel for the petitioner vide separate statement stated at the bar that the petitioner do not want any substantive relief against the previous owner and there by the petitioner had restricted his/her claim to the contesting respondent i.e M/s Penguin Electronics. Similar is the situation arises from the reference received from the appropriate government. In the reference there is mention of the contesting respondent M/s Penguin Electronics only and M/s Prithi Kitchens is not a party to the reference received from the appropriate government. Moreso, vide separate statements Ld. Counsel/AR for the petitioner did not press the claim petition against the respondent M/s Prithi kitchen Appliances Ltd. The statement is placed on record. As per the settlement arrived at between the parties, it is agreed upon that all the workers would get the retrenchment

compensation along-with other benefits such as one month's salary, gratuity, leave encashment etc. It is also asserted that all the workers who are willing to do work will submit their resignation and will get all the financial benefits from the previous owner M/s Prithi Kitchen. Another settlement arrived at between the parties dated 20.02.2020 (R-1), which was executed between the respondent management and representatives of the workers union under the egis of INTUC President Shri Hardeep Baba whereby it was agreed that all the workers who are not willing to work shall tender their resignations which will be accepted by the respondent management and thereafter the respondent management shall pay full & final settlement amount to each and every worker.

24. Hence, as per the settlement Ex R-1 between the parties under section 18(1) of the Act which has been executed between the parties to which the representative of the workmen as well as representatives of the management put their signatures and witnesses by INTUC President Shri Hardeep Baba. The aforesaid settlement was duly registered with the Labour Officer.

25. Before proceeding further, it is apposite to mention the relevant provisions of the Act. Therefore, I deem it proper to reproduce section 18 of the Act, which reads as under:

**“Persons on whom settlements and awards are binding: (1) A settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.**

**(2) [Subject to the provisions of sub-section (3), an arbitration award] which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.]**

**(3) A settlement arrived at in the course of conciliation Proceedings under this Act [or an arbitration award in a case where a notification has been issued under sub-section (3A) of section 10A] or [an award [of a Labour Court, Tribunal or National Tribunal] which has become enforceable] shall be binding on--**

**(a) all parties to the industrial dispute;**

**(b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board, [arbitrator,] 8\*[Labour Court, Tribunal or National Tribunal], as the case may be, records the opinion that they were so summoned without proper cause;**

**(c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;**

**(d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.”**

26. It is crystal clear from the perusal of the aforesaid provision of law that once the settlement is arrived at between the parties otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement. Time and again it is argued that the said agreement was signed by one Shri Mukesh Kumar and Shri Yash Pal, who were not duly authorized by the petitioner, they were not examined. So far as concerning the settlement arrived at between the parties and bound on all the parties, it is settled proposition of law that settlement which was arrived at by an agreement between the company and its employees or workmen represented by their mazdoor/Trade Union only and it was arrived at otherwise than in the course of a conciliation



proceeding. Accordingly, such bipartite settlement was binding in terms of section 18(1) of the Act. A settlement arrived at in the course of conciliation proceedings or otherwise than will be binding on all the workmen. The Court shall presume that the settlement arrived at otherwise than in the course of conciliation proceedings is just and fair. It becomes binding on all the parties and all the persons who have been subsequently effected by the said settlement in that establishment. I have carefully scrutinized the settlement (P-1) and is of the considered opinion that the said settlement is fair and legal and there is no illegality in the same.

27. Next comes the incriminating piece of evidence i.e resignation letter dated 21.02.2020 (R-5) produced from the side of the respondent whereby the petitioner in his/her own handwriting had written that he/she is not in position to continue further with the job and thereby tendered his/her resignation for acceptance. The resignation is free from any kind of internal or external pressure. The said resignation has duly been accepted by the respondent. Moreso, in the payment voucher (R-4), the petitioner had by making endorsement with his/her own handwriting that he/she had received full & final settlement amount of Rs. 2,00,000/- (two lakhs) and now nothing is due in his favour from the respondent company. Another limb of the argument advanced before me by the respondent that during the course of arguments, it is argued that the signatures of the petitioner were obtained on blank papers. It is also argued that some of the workers were asked to sign in the closed dark room. Though, this fact has neither been pleaded nor proved on record. The onus of proving the alleged fact lies on the shoulder of the petitioner. The petitioner has miserably failed to prove by leading cogent, clear and clinching evidence that her signatures were either obtained in a dark room or on blank papers. It is settled law that a fact pleaded and not proved and similarly a fact proved and not pleaded are of no consequences. Here, the situation is different as the obtaining of signatures on blank paper that is too in dark room is neither pleaded nor proved. Consequently, a plea which is neither pleaded nor proved assumes no significance in the eyes of law. Such a plea/contention raised at bar is devoid of force and not tenable under law. It is also argued that some of the workers are illiterate and not in position to evaluate the consequences of their signatures and so on. It is satisfactorily proved on record that the submission of resignation in his own handwriting would not tantamount to any kind of tantrum as contemplated before me by the Ld. Counsel for the petitioner by citing lot of excuses. To my mind all these pleas are not sustainable and merely proved to be lame excuses. I failed to understand that if it is so than what was the occasion for the petitioner not to raise his voice for obtaining signatures on the blank paper and that in the dark closed room. After the acceptance of the resignation, the petitioner was duly paid full & final settlement amount of Rs. 2,00,000/- (two lakhs) in terms of settlement arrived at between the parties (R-1), on record. As a matter of fact, the settlement arrived at between the parties (R-1), tendering of resignation (R-5) and its acceptance by the respondent management, payment of Rs. 2,00,000/- (two lakhs) by the respondent management as full and final settlement to the petitioner are form natural corollary of the sequence of events which clearly established that the petitioner who had worked with the respondent company for less than one year was paid full & final amount of Rs. 2,00,000/- (two lakhs) as compensation. The entire averments averred in the resignation dated 21.2.2020 (R-5), nowhere depicts that it is a case of forced resignation. The resignation tendered by the petitioner is out of her free will and volition.

28. Their Lordship of Hon'ble High Court of Bombay in a case titled as *Laffans India Pvt. Ltd. vs Pancham Singh Rawat And Another, Decided on 30 August, 2002, with equivalent citation 2003 (96) FLR 310, 2002 (4) MHLJ 470*, held as hereunder:

**“In my opinion, the award of the Labour Court cannot stand scrutiny even for a minute. No reasonable man could have come to the conclusion to which the Labour Court has come to, though the resignation letter was true and though the signature was admitted by the respondent workman and though he had received letter from the petitioner company that his resignation was accepted, it could be said that it was**

a forced resignation. It is a fact that from 17th December 1993 or from 22nd December 1993, the respondent workman at no point of time had complained to any authority under the law or to anyone including his union that he was forced to resign from employment or that he was forced to sign some blank papers and that such blank papers were used as his resignation letter. As rightly observed by the Labour Court in its earlier part of the Award that even in the demand letter submitted by the respondent workman after a period of 15 months, he did not whisper that his resignation was a forced resignation. It is absolutely unbelievable that if a workman is forced to resign he would keep quiet for a period of 15 months and would not take any action of any nature to protest against the force used by the employer to obtain such resignation letter. The delay of 15 months in raising demand itself is a crucial factor to discard totally the false theory of the workman that he was forced to resign or that his signature was taken on the blank papers or that such papers are used as resignation letter. In spite of more than sufficient material and evidence on record and though the Labour Court was satisfied about the factual aspect of the resignation I fail to understand how in the subsequent paragraphs of the award, the Labour Court has changed its flow of the award and reasoning for an resignation and come to a conclusion that the resignation was a forced resignation merely because the name of the respondent workman was not in the FIR. The finding of the Labour Court, therefore, is totally baseless and perverse and the same deserves to be quashed and set aside. Since the respondent workman had voluntarily resigned, there was no question of holding any domestic enquiry to punish the delinquent workman. It was entirely for the employer to accept resignation to simply get rid of the workman to buy peace and to save from the cost of enquiry or to hold an enquiry and punish. No inference of any nature can be drawn from the fact that the resignation was accepted as a short cut. In my opinion, there is nothing wrong or illegal or improper on the part of any employer to let his workman resign and leave even after the charge of a misconduct to avoid litigation and to avoid any stigmatic order which would also be not in the interest of the workman. It is not compulsory for the employer to hold an enquiry and punish his employee if the latter peacefully and voluntarily leaves the employment. Often such short cuts are also beneficial for both. There was absolutely no valid ground and justification for the Labour Court to hold that the resignation was a forced one and therefore, amounted to illegal termination to granting an amount of Rs. 1,25,000/- as compensation in lieu of reinstatement. The Labour Court has rightly commented that the conduct of the workman was not like a man of ordinary prudence. Any man of ordinary prudence, even a peon like the respondent workman would raise an alarm or protest as soon as he had received a letter from respondent company that his resignation was accepted. He would have immediately approached some authority or his union or the Government labour officer to say that he had never resigned but his resignation was taken forcibly or that his signature was taken on blank papers. In spite of its correct appreciation of evidence by the Labour Court, I fail to understand how the Labour Court has in the later portion of its award accepted the theory of forced resignation. There is absolutely no merit in the case of the workman.”

29. Bearing in mind the attendant facts and circumstances of the case as well oral and the documentary evidence as well and after considering the final arguments, my inference is that the services of the workman have not been terminated illegally rather the petitioner had submitted resignation voluntarily.

30. Moreso, during the course of arguments, it is argued on behalf of the Ld. Counsel for workman that resignation can be withdrawn at any time, the withdrawal of the resignation by the

claimant is a valid and he continues to be in service of the management. In my opinion this argument is on the fact of it false since the resignation of the claimant dated 21.02.2020, was duly accepted on the same day and it has become final and it cannot be withdrawn on subsequent date. Here, I am supported by Hon'ble Supreme Court judgment in **Raj Kumar Vs. UOI, AIR 1969 SC 180, decided on 18.04.1968** wherein it was held that :

**"when a person has tendered his resignation his services clearly stands terminated from the date on which the letter of resignation is accepted by the authority and in the absence of any law or rule governing the conditions of his service to the contrary, it will not be open to the person to withdraw his resignation after it was accepted by the authority."**

31. I am also supported by Hon'ble High Court of Delhi in **Deepak Kumar Bali Vs. HMT, (2009) III LLJ**, wherein it has been held as under:

**"the resignation letter was considered as not spontaneous. In the present case it is not in dispute that the job of the appellant was transferable. The appellant was transferred to Pinjore but refused to join the new station and instead made representations against the same. Since the appellant did not join there was no option left with the respondent management but to start disciplinary proceedings. A very important fact to be noted is that at no stage the appellant challenged the transfer order in any legal proceedings. At the stage when the disciplinary proceedings were reaching a conclusion against the appellant, the appellant in his wisdom thought it appropriate to resign and go out of service. It was the option with the appellant to either challenge the transfer order or to contest the disciplinary proceedings but instead of challenging the transfer order the chose to resign. His resignation was accepted as the management as the management also in its wisdom thought it appropriate to let go of him and all his dues were paid. The dues sent by the respondent Management were appropriated by the appellant. The appellant having appropriated the dues, thereafter sought to rake up the issue of the resignation being under duress or pressure."**

32. I also placed reliance in **Gujarat State Road Transport Corporation Vs. Shankarbhai Maljibhai Sandhwa, 2006 LLR 281**, it was held that :

**"the resignation after it is accepted again be withdrawn and once the resignation is accepted, no relationship of master and servant existed thereafter. "**

33. Similarly, reliance is placed on **Rukshana Eisa Vs. Union of India & Ors., 2008 LLR 86 of Bombay High Court**, wherein it was held that :

**"after valid acceptance it is not permissible to withdraw ID No. 501/06 9/10 the resignation."**

34. I am also fortified by the decision of the Hon'ble Gujarat High Court in **H.M.P Engineers Ltd. Fatehnagar Vs. R. Kashi Naidu, 2010 LLR 252**, wherein it is held that :

**"once the workman voluntarily resigned on accepting voluntary Separation Scheme, and it being duly accepted, he cannot later on withdraw his option."**

35. For the foregoing reasons, as a binding precedent as well the distinct facts and circumstances of the case and also in view of above stated reasons, it is held that the

workman/petitioner has voluntarily resigned from service and he has not been terminated illegally by the management. The plea taken from the side of the petitioner that he was forced to tender his resignation is also not tenable under law as he has failed to place/prove on record any complaint to the authorities in this regard. Accordingly, this issue is answered in negative.

*Issue No. 2.*

36. In support of this issue no evidence has been led by the respondent, which could go to show that as to how the present claim petition is neither competent nor maintainable in the present form especially when the same has been presented before the Court in pursuance to the reference notification received from the appropriate government. The issue in question is answered in negative.

*RELIEF*

37. As a Sequittor, in view of my above discussion, evaluation and findings on issues No.1& 2, **the merits of the claim petition of the petitioner deserves dismissal and the same is hereby dismissed.** Consequently, the present reference is answered in negative as it is held that the workman/petitioner has voluntarily resigned from service and he/she has not been terminated illegally. He/she is not entitled for any sort of relief from this Court/Tribunal.

38. Let a copy of this award be sent to the appropriate Government for publication as per law. File be consigned to the record room after necessary compliance by Ahlmad.

Ordered accordingly.

Announced in the open Court today this 16th day of October, 2023

Sd/-

(KRISHAN KUMAR)

*Presiding Judge,*

*Industrial Tribunal-cum-Labour Court, Shimla.*

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**IN THE COURT OF SH. KRISHAN KUMAR, PRESIDING JUDGE, H.P. INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Reference Number : 83 of 2021

Instituted on : 01.04.2021

Decided on : 16.10.2023

Sh. Avinash Kumar, s/o Shri Randhir Kumar, VPO Bhnala, Tehsil Shahpur, District Kangra, H.P.  
..Petitioner.

*VERSUS*

1. The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallelwal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P.

2. M/s Preethi Kitchen Appliances Pvt. Ltd., (Unit-III), Village Sallelwal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P Through its Managing Director. . .*Respondents.*

**Reference petition under section 10 of the Industrial Dispute Act, 1947**

For the Petitioner : Ms. Neetu Sharma, Advocate  
and Shri J.C. Bhardwaj, AR.  
For the Respondents : Sh. Rajeev Sharma, Advocate.

**AWARD**

The following reference petition has been, received from the Appropriate Government vide notification dated 12.03.2021, under section 10 of the Industrial Dispute Act, 1947 (**hereinafter referred to be as the Act**), for its legal adjudication, as under:

**“Whether the demand of Sh. Avinash Kumar, s/o Shri Randhir Kumar, V.P.O. Bhnala, Tehsil Shahpur, District Kangra, HP for his reinstatement in service before the management i.e. the Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallelwal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?” and if not its effect?”**

2. Material facts necessary for the disposal of present reference petition as described in the statement of claim are thus that the petitioner was engaged as a Technician with M/s Prithi Kitchen Appliances Pvt. Ltd. (unit III) Village Sallelwal Bharatgarh Road, Tehsil Nalagarh (**hereinafter to be referred as M/s Prithi Kitchen**) during the month August, 2008 and remained as such till his illegal removal from the company on 15.02.2019. As a matter of record, M/s Prithi Kitchen was taken over by the M/s Penguin Electronics Ltd. and the petitioner was pressurized by M/s Prithi Kitchen to apply for fresh recruitment with respondent and as such on 26.02.2019, the petitioner applied to the respondent company and remained as such, till he was illegally terminated by the respondent company (Penguin Electronics) on 20.02.2020 on the ground that the company is being closed. The very action of the respondent to terminate the services of the petitioner is biased, unfair and unreasonable. The respondent management had forcibly and illegally obtained the signatures of the petitioner on some blank papers and thereafter started causing interference and hindrances in the joining of the duty by saying that there is no necessity, as the company is going to be closed. The petitioner had requested the respondent company to allow him to join his duties but to no avail. The termination of the petitioner from service without affording any opportunity and conducting any domestic enquiry is illegal and not sustainable in the eyes of law.

3. In the footnote of the petition, the following prayer clause has been appended, which reads as under:

**“It is therefore prayed that this Hon’ble Court may kindly be pleased to declare the so called settlement, the coercive, resignation and termination null, void and inoperative by the respondent on 20.2.2020 and allow the petition of the petitioner /claimant thereby directing the respondent/management to reinstate the services of the claimant/petitioner in the respondent company with full back-wages, seniority and other consequential service benefits throughout with costs.”**

4. The lis was resisted and contested by respondent by filing written reply on *inter-alia* preliminary objections of maintainability, full and final settlement arrived at between the parties, the petitioner had not approached the Court with clean hands, claim is bad in the eyes of law, not a legal reference, mis-joinder of necessary parties and the petitioner has tendered his resignation, which was duly accepted by the respondent and a sum of Rs. 2 lacs has been disbursed as full & final settlement amount to the petitioner.

5. On merits, it is submitted that the respondent company had purchased the plant and machines from its erstwhile previous owner M/s Prithi Kitchen. As per the agreement, the respondent was ready to retain the petitioner along-with other workers, in consequences of conciliation meetings held and settlement arrived between the respondent company and workers on 15.02.2019. As per the settlement, it was agreed upon that the workers who were interested to work shall resign from the previous company after receiving all the financial benefits and thereafter join the respondent company along-with other workers, as such, the petitioner had joined as a fresh recruit with the respondent company since 26.02.2019, after receiving full & final financial benefits from the previous company i.e M/s Prithi Kitchen. However, the workers who were not interested to work with the respondent company shall get three months' notice period wages, retrenchment benefits, as per section 25-F of the Act, gratuity and all the financial benefits, as are applicable to them at the time of full and final settlement. With the passage of time, the respondent company found it difficult to run the unit, as the situation deteriorated within no time and the production had gone down drastically. The respondent company offered its employees/workers to transfer some of them to some other unit but the petitioner was not ready and through their representatives recognized workers union (INTUC) represented by its office bearers under the guidelines of the Baba Hardeep Singh entered into a settlement with the authorized representatives of the respondent company on 20.02.2020. As per this settlement, the respondent company had agreed to pay the consolidate sum of Rs. 2,00,000/- (Two Lacs) to each and every worker. It is denied that the petitioner was, in any manner, forced to tender the resignation. It is also denied that the signatures of the petitioner on blank papers were obtained. In fact, the petitioner and other co-workers had voluntarily tendered their resignation as per the settlement dated 20.02.2020 and received the full & final financial dues as applicable to them as per the settlement. It is, therefore prayed, that the claim petition may kindly be dismissed in the interest of justice.

6. While filing rejoinder, the petitioner controverted the averments made thereto in the reply filed by respondent and reaffirmed and reiterated those raised in the claim petition. It is averred that the resignation was taken from the petitioner forcibly, illegally and also by misrepresentation of the true facts. It is denied that the present reference is not legal reference and the claim petition was filed beyond the terms of reference.

7. On elucidating the pleading of parties, the following issues were struck down by this Tribunal, for its final determination, vide zimni order dated 23.02.2022, which reads as under:

1. Whether the demand of the petitioner for his reinstatement in service before the management of respondent company after submitting his resignation as per settlement dated 20.02.2020 arrived at between the respondent management and petitioner union, after receiving full and final amount of Rs. 2 Lakh as per settlement, is improper and unjustified? If yes, what relief the petitioner is entitled to and its effect? . . .*OPP*.
2. Whether the claim petition is neither competent nor maintainable in the present form, as alleged? . . .*OPR*.
3. Relief

8. Henceforth, parties to the dispute were asked to adduce oral as well as documentary evidence in support of their respective claims or issues so framed.

9. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

10. For the reasons to be recorded hereinafter, while discussing issues for determination, my findings on the point-wise issues, are as under:

Issue No.1 : No

Issue No.2 : No

Relief. : Reference answered in negative and the claim petition is ordered to be dismissed, as per operative part of award.

### REASONS FOR FINDINGS

#### *ISSUE NO.1.*

11. In order to substantiate its case, the petitioner had appeared into the witness dock as (PW-1) and tendered into evidence his sworn in affidavit (PW-1/A), wherein he had categorically reiterated almost all the averments, made thereto in the claim petition.

12. In cross-examination, the petitioner had testified that initially he was engaged with M/s Prithi Kitchen. He further admitted that there was a union in the M/s Prithi Kitchen. He had feigned ignorance that M/s Prithi Kitchen was taken over by the M/s Penguin Electronics Ltd. He admitted that on the directions of the Hon'ble High Court, the matter was referred to the Labour Officer, where full & final settlement was paid by Prithi Kitchen. He again admitted to have joined as fresh hand with Penguin Ltd. He further admitted that he had not completed one year service with the Penguin Ltd. He again admitted that he was paid salary for no work. He feigned ignorance that the dispute was raised before the Labour Officer. He again admitted that a sum of Rs. 2,00,000/- (two lakhs) were paid by the Penguin Ltd. towards settlement. He denied that he tendered his resignation and received full and final settlement. He further denied that he tendered resignation out of his free will and volition. He had also denied that after receiving full & final settlement, he is not entitled for re-instatement.

13. To refute the allegations of the petitioner, the respondent had examined Shri Surender Singh Bisht, presently posted as Labour Officer, Baddi as (RW-1), who proved on record the settlement arrived at between the parties dated 20.02.2020 registered on 25.02.2020 (R-1) and settlement between the parties dated 15.02.2019 (R-2).

14. In cross-examination, he admitted that the worker is not a signatory to settlement (R-1). Volunteered that it was signed by their representatives. He further admitted that the settlement (R-2) was also signed by the union representatives.

15. Smt. Shalu Chandel, Manager (HR) of respondent company appeared into the witness box as (RW-2), who had tendered into evidence her sworn in affidavit (RW-2/A), wherein she also reiterated almost all the averments as made thereto in the reply. She also tendered into evidence the letter of appointment (R-3), payment voucher (R-4), registration letter (R-5), reply to demand notice (R-6) and letter Mark RX-1, on record.

16. In cross-examination, the respondent witness duly admitted that there was a business transfer agreement executed between the two giants i.e M/s Prithi Kitchen and M/s Penguin Electronics Ltd., in the year 2019. She admitted that there was an ascertaining of these settlements arrived at before the Conciliation-*cum*-Labour Officer under section 12(3) and 18(1) were executed between the management and the workers representatives/union. She admitted that the workers are not a signatory to the aforesaid settlements. She denied that the respondent management had approached the Government for closure of the company under section 25-FFF of the Act, in the year 2020. She further denied that the resignation of the workers were obtained forcibly by the management and the workers union. She denied that the acceptance of the resignation was not conveyed to the workmen. Volunteered that the workers put their signatures on the payment voucher out of their free will and consent and again submitted resignation free and voluntarily made. She denied that the management had put the pressure on the workers.

17. This is the entire oral as well as documentary evidence adduced from the side of the parties.

18. Ms. Neetu Sharma, Advocate and Shri J.C Bhardwaj, Ld. Counsel and AR for the petitioner has contended with all vehemence that the settlement was neither signed by the workers personally nor they have authorized anyone to sign the settlement on their behalf in this regard. Since, there is no authorization as per the prescribed performa F has been proved by the respondent, hence, the settlement arrived at between the representatives of the workmens and management is not a legal settlement executed between the parties. They further argued that the settlement has been signed between the management and some of the representatives namely Shri Mukesh and Shri Yashpal under section 18(1) of the Act, hence, this settlement is not at all binding on the petitioner and it is only applicable on the signatory of the settlement. The management of the respondent company has not produced the best evidence by not examining the signatories i.e Shri Mukesh and Shri Yashpal to the settlement, which could go to show that under which capacity they have signed the settlement, hence, the settlement executed, if any, ultimately required to be set aside and quashed. She also argued that the settlement amount, if any, is proved against the workers, the same can be deducted at the rate of 25% per month from the salary of the workers. She argued that the payment of three months salary is required to be paid to each workmen as more than 100 workmen were working at the time of so called settlement. It is not at all understandable that why the respondent paid Rs. 2,00,000/- (two lakhs) to the petitioner without any valid conciliation effected interse the parties, which clearly shows that the respondent management had resorted to an unfair labour practice and victimization of the petitioner/workers. She argued that if the workers have submitted their resignation voluntarily then what would be the need for the settlement and with whom and why these settlements were not signed before the Labour-*cum*-Conciliation Officer. There is no acceptance of the resignation in these settlements. There is no proof placed on record that the settlement amount has been withdrawn by the workmen. It is argued that one hand the company is alleging the amicable settlement but in other hand tendering of resignation, therefore the present case is clear cut example of unfair labour practice as the resignation and settlements were arrived in the wake that the company is being closed. There is a bulk resignations obtained under section 25-FFF of the Act, however, the company is still in working condition, hence, the same amounts to an illegal retrenchment. They prayed that the petitioner be reinstated in service with all consequential service benefits including full back-wages in the interest of justice.

19. Ld. Counsel and AR for the petitioner also placed reliance on the case law **M/s Oswal Agro ltd. Vs. Oswal Agro worker Union 2005 LLR 305 (SC) and Workmen of Minakshi Mill Vs. Minakshi Mill Ltd. And another 1992 LLR 481 (SC)**.

20. **Per contra**, Shri Rajiv Sharma, Ld. Counsel for the respondent vigorously urged that the provisions of section 25-N of the Act would not be applicable in the present facts and



circumstances of the case as the workers have not been in continuous service for not less than one year and they had not been retrenched by the respondent employer. It is not at all a case of retrenchment, rather he argued that it is the simplicitor case of tendering resignation out of free will and consent. After acceptance of the resignation a sum of Rs. 2,00,000/- (two lakhs) as per settlement has been paid to the petitioner. He further argued that it is quite apparent from the reference received from the appropriate government that each and every worker has been paid Rs. 2,00,000/- (two lakhs) settlement amount for less than one year of service. The documentary evidence filed by the respondent would clearly establish that it is a case of clear cut tendering of resignation and not retrenchment. It is settled law that once the resignation is tendered and the same has been accepted by the appropriate authority, thereafter the same cannot be withdrawn. It is not established on record that had it been a case of obtaining signatures on blank papers or tendering resignation forcibly then why the petitioner had remained slumbered over the matter for such a pretty long period, till the raising of the demand notice. Neither the petitioner reported the matter to the Police nor brought the same to the notice of the Labour Commissioner or the higher authorities. The plea of submitting bulk resignations is also not tenable. The entire case raised from the side of the petitioner is crystal clear from the tone and tenor of the reference itself that after submitting the resignation and settlement arrived between the parties dated 20.02.2020 and after receiving full & final amount of Rs. 2,00,000/- (two lakhs) as per clause of the said agreement is proper and fair. Therefore, he prayed for the dismissal of the claim petition. He also placed reliance on the case law **Globe Ground India Employees Vs. Lufthansa German Airlines decided on 23.4.2019.**

21. I have given my best anxious considerable thought to the respective submissions of the Learned Counsel for the parties and have also scrutinized the entire case record with minute care, caution and circumspection.

22. Thus, from a careful and meticulous examination of the entire case record, it is manifestly clear on record that the petitioner was engaged as a Technician with a erstwhile previous company i.e M/s Prithi Kitchens. It is proved to the satisfaction of the Court that the petitioner had worked as such till 15.02.2019 and thereafter M/s Prithi Kitchen was taken over by the respondent company. It is an admitted case of both the parties that the petitioner was engaged as fresh hand/recruited with the respondent company on 26.02.2019 and had worked as such till 20.02.2020. It is alleged that the signatures of the petitioner were obtained on some blank papers, therefore the alleged resignation is nothing but has been obtained forcibly by the respondent. On the other hand, the respondent had asserted that as per agreement executed between the previous owner i.e M/s Prithi Kitchen, the respondent was ready to retain the workers and engage them as fresh recruit/hands. The petitioner was engaged as fresh hand and worked as such for a period of approx. 9-10 months but he was not at all interested to work further, therefore, conciliation proceedings were held and settlement was arrived between the parties and full and final settlement amount was paid to the petitioner.

23. Admittedly, there were as many as two settlements arrived on record, firstly under section 12(3) (R-2) and under section 18(1) (R-1), which were produced on record. On behalf of the petitioner no documentary proof has been supplied on record. Both these settlements (R-1) and (R-2) produced on record were duly registered with the Labour Officer, as proved on record. Though, the petitioner had arrayed the previous company M/s Prithi Kitchens as one of the contesting respondent, but, Ld. Counsel for the petitioner vide separate statement stated at the bar that the petitioner do not want any substantive relief against the previous owner and there by the petitioner had restricted his/her claim to the contesting respondent i.e M/s Penguin Electronics. Similar is the situation arises from the reference received from the appropriate government. In the reference there is mention of the contesting respondent M/s Penguin Electronics only and M/s Prithi Kitchens is not a party to the reference received from the appropriate government. Moreso, vide separate statements Ld. Counsel/AR for the petitioner did not press the claim petition against

the respondent M/s Prithi kitchen Appliances Ltd. The statement is placed on record. As per the settlement arrived at between the parties, it is agreed upon that all the workers would get the retrenchment compensation along-with other benefits such as one month's salary, gratuity, leave encashment etc. It is also asserted that all the workers who are willing to do work will submit their resignation and will get all the financial benefits from the previous owner M/s Prithi Kitchen. Another settlement arrived at between the parties dated 20.02.2020 (R-1), which was executed between the respondent management and representatives of the workers union under the egis of INTUC President Shri Hardeep Baba whereby it was agreed that all the workers who are not willing to work shall tender their resignations which will be accepted by the respondent management and thereafter the respondent management shall pay full & final settlement amount to each and every worker.

24. Hence, as per the settlement Ex R-1 between the parties under section 18(1) of the Act which has been executed between the parties to which the representative of the workmen as well as representatives of the management put their signatures and witnesses by INTUC President Shri Hardeep Baba. The aforesaid settlement was duly registered with the Labour Officer.

25. Before proceeding further, it is apposite to mention the relevant provisions of the Act. Therefore, I deem it proper to reproduce section 18 of the Act, which reads as under:

**“Persons on whom settlements and awards are binding: (1) A settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.**

**(2) [Subject to the provisions of sub-section (3), an arbitration award] which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.]**

**(3) A settlement arrived at in the course of conciliation Proceedings under this Act [or an arbitration award in a case where a notification has been issued under sub-section (3A) of section 10A] or [an award [of a Labour Court, Tribunal or National Tribunal] which has become enforceable] shall be binding on—**

- (a) all parties to the industrial dispute;**
- (b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board, [arbitrator,] 8\*[Labour Court, Tribunal or National Tribunal], as the case may be, records the opinion that they were so summoned without proper cause;**
- (c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;**
- (d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.”**

26. It is crystal clear from the perusal of the aforesaid provision of law that once the settlement is arrived at between the parties otherwise then in the course of conciliation proceeding shall be binding on the parties to the agreement. Time and again it is argued that the said agreement was signed by one Shri Mukesh Kumar and Shri Yash Pal, who were not duly authorized by the

petitioner, they were not examined. So far as concerning the settlement arrived at between the parties and bound on all the parties, it is settled proposition of law that settlement which was arrived at by an agreement between the company and its employees or workmen represented by their mazdoor/Trade Union only and it was arrived at otherwise than in the course of a conciliation proceeding. Accordingly, such bipartite settlement was binding in terms of section 18(1) of the Act. A settlement arrived at in the course of conciliation proceedings or otherwise than will be binding on all the workmen. The Court shall presume that the settlement arrived at otherwise than in the course of conciliation proceedings is just and fair. It becomes binding on all the parties and all the persons who have been subsequently effected by the said settlement in that establishment. I have carefully scrutinized the settlement (P-1) and is of the considered opinion that the said settlement is fair and legal and there is no illegality in the same.

27. Next comes the incriminating piece of evidence i.e resignation letter dated 21.02.2020 (R-5) produced from the side of the respondent whereby the petitioner in his/her own handwriting had written that he/she is not in position to continue further with the job and thereby tendered his/her resignation for acceptance. The resignation is free from any kind of internal or external pressure. The said resignation has duly been accepted by the respondent. Moreso, in the payment voucher (R-4), the petitioner had by making endorsement with his/her own handwriting that he/she had received full & final settlement amount of Rs. 2,00,000/- (two lakhs) and now nothing is due in his favour from the respondent company. Another limb of the argument advanced before me by the respondent that during the course of arguments, it is argued that the signatures of the petitioner were obtained on blank papers. It is also argued that some of the workers were asked to sign in the closed dark room. Though, this fact has neither been pleaded nor proved on record. The onus of proving the alleged fact lies on the shoulder of the petitioner. The petitioner has miserably failed to prove by leading cogent, clear and clinching evidence that her signatures were either obtained in a dark room or on blank papers. It is settled law that a fact pleaded and not proved and similarly a fact proved and not pleaded are of no consequences. Here, the situation is different as the obtaining of signatures on blank paper that is too in dark room is neither pleaded nor proved. Consequently, a plea which is neither pleaded nor proved assumes no significance in the eyes of law. Such a plea/contention raised at bar is devoid of force and not tenable under law. It is also argued that some of the workers are illiterate and not in position to evaluate the consequences of their signatures and so on. It is satisfactorily proved on record that the submission of resignation in his own handwriting would not tantamount to any kind of tantrum as contemplated before me by the Ld. Counsel for the petitioner by citing lot of excuses. To my mind all these pleas are not sustainable and merely proved to be lame excuses. I failed to understand that if it is so than what was the occasion for the petitioner not to raise his voice for obtaining signatures on the blank paper and that in the dark closed room. After the acceptance of the resignation, the petitioner was duly paid full & final settlement amount of Rs. 2,00,000/- (two lakhs) in terms of settlement arrived at between the parties (R-1), on record. As a matter of fact, the settlement arrived at between the parties (R-1), tendering of resignation (R-5) and its acceptance by the respondent management, payment of Rs. 2,00,000/- (two lakhs) by the respondent management as full and final settlement to the petitioner are form natural corollary of the sequence of events which clearly established that the petitioner who had worked with the respondent company for less than one year was paid full & final amount of Rs. 2,00,000/- (two lakhs) as compensation. The entire averments averred in the resignation dated 21.2.2020 (R-5), nowhere depicts that it is a case of forced resignation. The resignation tendered by the petitioner is out of her free will and volition.

28. Their Lordship of Hon'ble High Court of Bombay in a case titled as ***Laffans India Pvt. Ltd. vs Pancham Singh Rawat And Another, Decided on 30 August, 2002, with equivalent citation 2003 (96) FLR 310, 2002 (4) MHLJ 470***, held as hereunder:

**“In my opinion, the award of the Labour Court cannot stand scrutiny even for a minute. No reasonable man could have come to the conclusion to which the Labour**

Court has come to, though the resignation letter was true and though the signature was admitted by the respondent workman and though he had received letter from the petitioner company that his resignation was accepted, it could be said that it was a forced resignation. It is a fact that from 17th December 1993 or from 22nd December 1993, the respondent workman at no point of time had complained to any authority under the law or to anyone including his union that he was forced to resign from employment or that he was forced to sign some blank papers and that such blank papers were used as his resignation letter. As rightly observed by the Labour Court in its earlier part of the Award that even in the demand letter submitted by the respondent workman after a period of 15 months, he did not whisper that his resignation was a forced resignation. It is absolutely unbelievable that if a workman is forced to resign he would keep quiet for a period of 15 months and would not take any action of any nature to protest against the force used by the employer to obtain such resignation letter. The delay of 15 months in raising demand itself is a crucial factor to discard totally the false theory of the workman that he was forced to resign or that his signature was taken on the blank papers or that such papers are used as resignation letter. In spite of more than sufficient material and evidence on record and though the Labour Court was satisfied about the factual aspect of the resignation I fail to understand how in the subsequent paragraphs of the award, the Labour Court has changed its flow of the award and reasoning for an resignation and come to a conclusion that the resignation was a forced resignation merely because the name of the respondent workman was not in the FIR. The finding of the Labour Court, therefore, is totally baseless and perverse and the same deserves to be quashed and set aside. Since the respondent workman had voluntarily resigned, there was no question of holding any domestic enquiry to punish the delinquent workman. It was entirely for the employer to accept resignation to simply get rid of the workman to buy peace and to save from the cost of enquiry or to hold an enquiry and punish. No inference of any nature can be drawn from the fact that the resignation was accepted as a short cut. In my opinion, there is nothing wrong or illegal or improper on the part of any employer to let his workman resign and leave even after the charge of a misconduct to avoid litigation and to avoid any stigmatic order which would also be not in the interest of the workman. It is not compulsory for the employer to hold an enquiry and punish his employee if the latter peacefully and voluntarily leaves the employment. Often such short cuts are also beneficial for both. There was absolutely no valid ground and justification for the Labour Court to hold that the resignation was a forced one and therefore, amounted to illegal termination to granting an amount of Rs. 1,25,000/- as compensation in lieu of reinstatement. The Labour Court has rightly commented that the conduct of the workman was not like a man of ordinary prudence. Any man of ordinary prudence, even a peon like the respondent workman would raise an alarm or protest as soon as he had received a letter from respondent company that his resignation was accepted. He would have immediately approached some authority or his union or the Government labour officer to say that he had never resigned but his resignation was taken forcibly or that his signature was taken on blank papers. In spite of its correct appreciation of evidence by the Labour Court, I fail to understand how the Labour Court has in the later portion of its award accepted the theory of forced resignation. There is absolutely no merit in the case of the workman.”

29. Bearing in mind the attendant facts and circumstances of the case as well oral and the documentary evidence as well and after considering the final arguments, my inference is that the services of the workman have not been terminated illegally rather the petitioner had submitted resignation voluntarily.

30. Moreso, during the course of arguments, it is argued on behalf of the Ld. Counsel for workman that resignation can be withdrawn at any time, the withdrawal of the resignation by the claimant is a valid and he continues to be in service of the management. In my opinion this argument is on the fact of it false since the resignation of the claimant dated 21.02.2020, was duly accepted on the same day and it has become final and it cannot be withdrawn on subsequent date. Here, I am supported by Hon'ble Supreme Court judgment in **Raj Kumar Vs. UOI, AIR 1969 SC 180, decided on 18.04.1968** wherein it was held that :

**"when a person has tendered his resignation his services clearly stands terminated from the date on which the letter of resignation is accepted by the authority and in the absence of any law or rule governing the conditions of his service to the contrary, it will not be open to the person to withdraw his resignation after it was accepted by the authority."**

31. I am also supported by Hon'ble High Court of Delhi in **Deepak Kumar Bali Vs. HMT, (2009) III LLJ**, wherein it has been held as under:

**"the resignation letter was considered as not spontaneous. In the present case it is not in dispute that the job of the appellant was transferable. The appellant was transferred to Pinjore but refused to join the new station and instead made representations against the same. Since the appellant did not join there was no option left with the respondent management but to start disciplinary proceedings. A very important fact to be noted is that at no stage the appellant challenged the transfer order in any legal proceedings. At the stage when the disciplinary proceedings were reaching a conclusion against the appellant, the appellant in his wisdom thought it appropriate to resign and go out of service. It was the option with the appellant to either challenge the transfer order or to contest the disciplinary proceedings but instead of challenging the transfer order the chose to resign. His resignation was accepted as the management as the management also in its wisdom thought it appropriate to let go of him and all his dues were paid. The dues sent by the respondent Management were appropriated by the appellant. The appellant having appropriated the dues, thereafter sought to rake up the issue of the resignation being under duress or pressure."**

32. I also placed reliance in **Gujarat State Road Transport Corporation Vs. Shankarbhai Maljibhai Sandhwa, 2006 LLR 281**, it was held that :

**"the resignation after it is accepted again be withdrawn and once the resignation is accepted, no relationship of master and servant existed thereafter. "**

33. Similarly, reliance is placed on **Rukshana Eisa Vs. Union of India & Ors., 2008 LLR 86 of Bombay High Court**, wherein it was held that :

**"after valid acceptance it is not permissible to withdraw ID No. 501/06 9/10 the resignation."**

34. I am also fortified by the decision of the Hon'ble Gujarat High Court in **H.M.P Engineers Ltd. Fatehnagar Vs. R. Kashi Naidu, 2010 LLR 252**, wherein it is held that :

**"once the workman voluntarily resigned on accepting voluntary Separation Scheme, and it being duly accepted, he cannot later on withdraw his option."**

35. For the foregoing reasons, as a binding precedent as well the distinct facts and circumstances of the case and also in view of above stated reasons, it is held that the

workman/petitioner has voluntarily resigned from service and he has not been terminated illegally by the management. The plea taken from the side of the petitioner that he was forced to tender his resignation is also not tenable under law as he has failed to place/prove on record any complaint to the authorities in this regard. Accordingly, this issue is answered in negative.

*ISSUE NO. 2.*

36. In support of this issue no evidence has been led by the respondent, which could go to show that as to how the present claim petition is neither competent nor maintainable in the present form especially when the same has been presented before the Court in pursuance to the reference notification received from the appropriate government. The issue in question is answered in negative.

*RELIEF*

37. As a Sequitor, in view of my above discussion, evaluation and findings on issues no.1& 2, **the merits of the claim petition of the petitioner deserves dismissal and the same is hereby dismissed.** Consequently, the present reference is answered in negative as it is held that the workman/petitioner has voluntarily resigned from service and he/she has not been terminated illegally. He/she is not entitled for any sort of relief from this Court/Tribunal.

38. Let a copy of this award be sent to the appropriate Government for publication as per law. File be consigned to the record room after necessary compliance by Ahlmad.

Ordered accordingly.

Announced in the open Court today this 16th day of October, 2023.

Sd/-

(KRISHAN KUMAR)

*Presiding Judge,*

*Industrial Tribunal-cum-Labour Court, Shimla.*

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**IN THE COURT OF Sh. KRISHAN KUMAR, PRESIDING JUDGE, H.P. INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Reference Number : 90 of 2021

Instituted on : 05.04.2021

Decided on : 16.10.2023

Sh. Suresh Kumar, s/o Sh. Sadhu Ram, Ram Leela Ground, Nalagarh, Tehsil Nalagarh,  
District Solan, H.P. . . . . .*Petitioner.*

*VERSUS*

1. The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh  
Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P.

2. M/s Preethi Kitchen Appliances Pvt. Ltd., (Unit-III), Village Sallelwal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P through its Managing Director. . .Respondents.

### Reference petition under section 10 of the Industrial Dispute Act, 1947

For the Petitioner : Ms. Neetu Sharma, Advocate  
and Shri J.C Bhardwaj, AR.

For the Respondents : Sh. Rajeev Sharma, Advocate

### AWARD

The following reference petition has been, received from the Appropriate Government *vide* notification dated 15.03.2021, under section 10 of the Industrial Dispute Act, 1947 (**hereinafter referred to be as the Act**), for its legal adjudication, as under:

**“Whether the demand of Sh. Suresh Kumar, s/o Sh. Sadhu Ram, Ram Leela Ground, Nalagarh, Tehsil Nalagarh, District Solan, H.P. for his reinstatement in service before the management i.e. the Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallelwal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?” and if not its effect?”**

2. Material facts necessary for the disposal of present reference petition as described in the statement of claim are thus that the petitioner was engaged as a Technician with M/s Prithi Kitchen Appliances Pvt. Ltd. (unit III) Village Sallelwal Bharatgarh Road, Tehsil Nalagarh (**hereinafter to be referred as M/s Prithi Kitchen**) since 07.03.2009 and remained as such till her illegal removal from the company on 15.02.2019. As a matter of record, M/s Prithi Kitchen was taken over by the M/s Penguin Electronics Ltd. and the petitioner was pressurized by M/s Prithi Kitchen to apply for fresh recruitment with respondent and as such on 26.02.2019, the petitioner applied to the respondent company and remained as such, till he was illegally terminated by the respondent company (Penguin Electronics) on 20.02.2020 on the ground that the company is being closed. The very action of the respondent to terminate the services of the petitioner is biased, unfair and unreasonable. The respondent management had forcibly and illegally obtained the signatures of the petitioner on some blank papers and thereafter started causing interference and hindrances in the joining of the duty by saying that there is no necessity, as the company is going to be closed. The petitioner had requested the respondent company to allow his to join his duties but to no avail. The termination of the petitioner from service without affording any opportunity and conducting any domestic enquiry is illegal and not sustainable in the eyes of law.

3. In the footnote of the petition, the following prayer clause has been appended, which reads as under:

**“It is therefore prayed that this Hon’ble Court may kindly be pleased to declare the so called settlement, the coercive, resignation and termination null, void and inoperative by the respondent on 20.2.2020 and allow the petition of the petitioner /claimant thereby directing the respondent/management to reinstate the services of the**

**claimant/petitioner in the respondent company with full back-wages, seniority and other consequential service benefits throughout with costs.”**

4. The lis was resisted and contested by respondent by filing written reply on *inter-alia* preliminary objections of maintainability, full and final settlement arrived at between the parties, the petitioner had not approached the Court with clean hands, claim is bad in the eyes of law, not a legal reference, mis-joinder of necessary parties and the petitioner has tendered his resignation, which was duly accepted by the respondent and a sum of Rs. 2 lacs has been disbursed as full & final settlement amount to the petitioner.

5. On merits, it is submitted that the respondent company had purchased the plant and machines from its erstwhile previous owner M/s Prithi Kitchen. As per the agreement, the respondent was ready to retain the petitioner along-with other workers, in consequences of conciliation meetings held and settlement arrived between the respondent company and workers on 15.02.2019. As per the settlement, it was agreed upon that the workers who were interested to work shall resign from the previous company after receiving all the financial benefits and thereafter join the respondent company along-with other workers, as such, the petitioner had joined as a fresh recruit with the respondent company since 26.02.2019, after receiving full & final financial benefits from the previous company *i.e* M/s Prithi Kitchen. However, the workers who were not interested to work with the respondent company shall get three months' notice period wages, retrenchment benefits, as per section 25-F of the Act, gratuity and all the financial benefits, as are applicable to them at the time of full and final settlement. With the passage of time, the respondent company found it difficult to run the unit, as the situation deteriorated within no time and the production had gone down drastically. The respondent company offered its employees/workers to transfer some of them to some other unit but the petitioner was not ready and through their representatives recognized workers union (INTUC) represented by its office bearers under the guidelines of the Baba Hardeep Singh entered into a settlement with the authorized representatives of the respondent company on 20.02.2020. As per this settlement, the respondent company had agreed to pay the consolidate sum of Rs. 2,00,000/- (Two Lacs) to each and every worker. It is denied that the petitioner was, in any manner, forced to tender the resignation. It is also denied that the signatures of the petitioner on blank papers were obtained. In fact, the petitioner and other co-workers had voluntarily tendered their resignation as per the settlement dated 20.02.2020 and received the full & final financial dues as applicable to them as per the settlement. It is, therefore prayed, that the claim petition may kindly be dismissed in the interest of justice.

6. While filing rejoinder, the petitioner controverted the averments made thereto in the reply filed by respondent and reaffirmed and reiterated those raised in the claim petition. It is averred that the resignation was taken from the petitioner forcibly, illegally and also by misrepresentation of the true facts. It is denied that the present reference is not legal reference and the claim petition was filed beyond the terms of reference.

7. On elucidating the pleading of parties, the following issues were struck down by this Tribunal, for its final determination, *vide* zimni order dated 23.09.2022, which reads as under:

1. Whether the demand of the petitioner for his reinstatement in service before the management of respondent company after submitting his resignation as per settlement dated 20.02.2020 arrived at between the respondent management and petitioner union, after receiving full and final amount of Rs. 2 Lakh as per settlement, is improper and unjustified? If yes, what relief the petitioner is entitled to and its effect? . . . *OPP.*
2. Whether the claim petition is neither competent nor maintainable in the present form, as alleged? . . . *OPR.*



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### 3. Relief

8. Henceforth, parties to the dispute were asked to adduce oral as well as documentary evidence in support of their respective claims or issues so framed.

9. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

10. For the reasons to be recorded hereinafter, while discussing issues for determination, my findings on the point-wise issues, are as under:

Issue No.1 : No

Issue No. 2 : No

Relief. : Reference answered in negative and the claim petition is ordered to be dismissed, as per operative part of award.

### REASONS FOR FINDINGS

#### *ISSUE NO.1*

11. In order to substantiate its case, the petitioner had appeared into the witness dock as (PW-1) and tendered into evidence his sworn in affidavit (PW-1/A), wherein he had categorically reiterated almost all the averments, made thereto in the claim petition.

12. In cross-examination, the petitioner had testified that initially he was engaged with M/s Prithi Kitchen. He further admitted that there was a union in the M/s Prithi Kitchen. He had feigned ignorance that M/s Prithi Kitchen was taken over by the M/s Penguin Electronics Ltd. He admitted that on the directions of the Hon'ble High Court, the matter was referred to the Labour Officer, where full & final settlement was paid by Prithi Kitchen. He again admitted to have joined as fresh hand with Penguin Ltd. He further admitted that he had not completed one year service with the Penguin Ltd. He again admitted that he was paid salary for no work. He feigned ignorance that the dispute was raised before the Labour Officer. He again admitted that a sum of Rs. 2,00,000/- (two lakhs) were paid by the Penguin Ltd. towards settlement. He denied that he tendered his resignation and received full and final settlement. He further denied that he tendered resignation out of his free will and volition. He had also denied that after receiving full & final settlement, he is not entitled for re-instatement.

13. To refute the allegations of the petitioner, the respondent had examined Shri Surender Singh Bisht, presently posted as Labour Officer, Baddi as (RW-1), who proved on record the settlement arrived at between the parties dated 20.02.2020 registered on 25.02.2020 (R-1) and settlement between the parties dated 15.02.2019 (R-2).

14. In cross-examination, he admitted that the worker is not a signatory to settlement (R-1). Volunteered that it was signed by their representatives. He further admitted that the settlement (R-2) was also signed by the union representatives.

15. Smt. Shalu Chandel, Manager (HR) of respondent company appeared into the witness box as (RW-2), who had tendered into evidence her sworn in affidavit (RW-2/A), wherein she also reiterated almost all the averments as made thereto in the reply. She also tendered into evidence the

letter of appointment (R-3), payment voucher (R-4), registration letter (R-5), reply to demand notice (R-6) and letter Mark RX-1, on record.

16. In cross-examination, the respondent witness duly admitted that there was a business transfer agreement executed between the two giants *i.e* M/s Prithi Kitchen and M/s Penguin Electronics Ltd., in the year 2019. She admitted that there was an ascertaining of these settlements arrived at before the Conciliation-cum-Labour Officer under section 12(3) and 18(1) were executed between the management and the workers representatives/union. She admitted that the workers are not a signatory to the aforesaid settlements. She denied that the respondent management had approached the Government for closure of the company under section 25-FFF of the Act, in the year 2020. She further denied that the resignation of the workers were obtained forcibly by the management and the workers union. She denied that the acceptance of the resignation was not conveyed to the workmen. Volunteered that the workers put their signatures on the payment voucher out of their free will and consent and again submitted resignation free and voluntarily made. She denied that the management had put the pressure on the workers.

17. This is the entire oral as well as documentary evidence adduced from the side of the parties.

18. Ms. Neetu Sharma, Advocate and Shri J.C Bhardwaj, Ld. Counsel and AR for the petitioner has contended with all vehemence that the settlement was neither signed by the workers personally nor they have authorized anyone to sign the settlement on their behalf in this regard. Since, there is no authorization as per the prescribed performa F has been proved by the respondent, hence, the settlement arrived at between the representatives of the workers and management is not a legal settlement executed between the parties. They further argued that the settlement has been signed between the management and some of the representatives namely Shri Mukesh and Shri Yashpal under section 18(1) of the Act, hence, this settlement is not at all binding on the petitioner and it is only applicable on the signatory of the settlement. The management of the respondent company has not produced the best evidence by not examining the signatories *i.e* Shri mukesh and Shri Yashpal to the settlement, which could go to show that under which capacity they have signed the settlement, hence, the settlement executed, if any, ultimately required to be set aside and quashed. She also argued that the settlement amount, if any, is proved against the workers, the same can be deducted at the rate of 25% per month from the salary of the workers. She argued that the payment of three months salary is required to be paid to each workmen as more than 100 workmen were working at the time of so called settlement. It is not at all understandable that why the respondent paid Rs. 2,00,000/- (two lakhs) to the petitioner without any valid conciliation effected interse the parties, which clearly shows that the respondent management had resorted to an unfair labour practice and victimization of the petitioner/workers. She argued that if the workers have submitted their resignation voluntarily then what would be the need for the settlement and with whom and why these settlements were not signed before the Labour-cum-Conciliation Officer. There is no acceptance of the resignation in these settlements. There is no proof placed on record that the settlement amount has been withdrawn by the workmen. It is argued that one hand the company is alleging the amicable settlement but in other hand tendering of resignation, therefore the present case is clear cut example of unfair labour practice as the resignation and settlements were arrived in the wake that the company is being closed. There is a bulk resignations obtained under section 25-FFF of the Act, however, the company is still in working condition, hence, the same amounts to an illegal retrenchment. They prayed that the petitioner be reinstated in service with all consequential service benefits including full back-wages in the interest of justice.

19. Ld. Counsel and AR for the petitioner also placed reliance on the case law **M/s Oswal Agro ltd. Vs. Oswal Agro worker Union 2005 LLR 305 (SC) and Workmen of Minakshi Mill Vs. Minakshi Mill Ltd. And another 1992 LLR 481 (SC).**

20. ***Per contra***, Shri Rajiv Sharma, Ld. Counsel for the respondent vigorously urged that the provisions of section 25-N of the Act would not be applicable in the present facts and circumstances of the case as the workers have not been in continuous service for not less than one year and they had not been retrenched by the respondent employer. It is not at all a case of retrenchment, rather he argued that it is the simplicitor case of tendering resignation out of free will and consent. After acceptance of the resignation a sum of Rs. 2,00,000/- (two lakhs) as per settlement has been paid to the petitioner. He further argued that it is quite apparent from the reference received from the appropriate government that each and every workers have been paid Rs. 2,00,000/- (two lakhs) settlement amount for less than one year of service. The documentary evidence filed by the respondent would clearly established that it is a case of clear cut tendering of resignation and not retrenchment. It is settled law that once the resignation is tendered and the same has been accepted by the appropriate authority, thereafter the same cannot be withdrawn. It is not established on record that had it been a case of obtaining signatures on blank papers or tendering resignation forcibly then why the petitioner had remained slumbered over the matter for such a pretty long period, till the raising of the demand notice. Neither the petitioner reported the matter to the Police nor brought the same to the notice of the Labour Commissioner or the higher authorities. The plea of submitting bulk resignations is also not tenable. The entire case raised from the side of the petitioner is crystal clear from the tone and tenor of the reference itself that after submitting the resignation and settlement arrived between the parties dated 20.02.2020 and after receiving full & final amount of Rs. 2,00,000/- (two lakhs) as per clause of the said agreement is proper and fair. Therefore, he prayed for the dismissal of the claim petition. He also placed reliance on the case law **Globe Ground India Employees Vs. Lufthansa German Airlines decided on 23.4.2019**.

21. I have given my best anxious considerable thought to the respective submissions of the Learned Counsel for the parties and have also scrutinized the entire case record with minute care, caution and circumspection.

22. Thus, from a careful and meticulous examination of the entire case record, it is manifestly clear on record that the petitioner was engaged as a Technician with a erstwhile previous company i.e. M/s Prithi Kitchens. It is proved to the satisfaction of the Court that the petitioner had worked as such till 15.02.2019 and thereafter M/s Prithi Kitchen was taken over by the respondent company. It is an admitted case of both the parties that the petitioner was engaged as fresh hand/recruited with the respondent company on 26.02.2019 and had worked as such till 20.02.2020. It is alleged that the signatures of the petitioner were obtained on some blank papers, therefore the alleged resignation is nothing but has been obtained forcibly by the respondent. On the other hand, the respondent had asserted that as per agreement executed between the previous owner i.e. M/s Prithi Kitchen, the respondent was ready to retain the workers and engage them as fresh recruit/hands. The petitioner was engaged as fresh hand and worked as such for a period of approx. 9-10 months but he was not at all interested to work further, therefore, conciliation proceedings were held and settlement was arrived between the parties and full and final settlement amount was paid to the petitioner.

23. Admittedly, there were as many as two settlements arrived on record, firstly under section 12(3) (R-2) and under section 18(1) (R-1), which were produced on record. On behalf of the petitioner no documentary proof has been supplied on record. Both these settlements (R-1) and (R-2) produced on record were duly registered with the Labour Officer, as proved on record. Though, the petitioner had arrayed the previous company M/s Prithi Kitchens as one of the contesting respondent, but, Ld. Counsel for the petitioner *vide* separate statement stated at the bar that the petitioner do not want any substantive relief against the previous owner and there by the petitioner had restricted his/her claim to the contesting respondent i.e. M/s Penguin Electronics. Similar is the situation arises from the reference received from the appropriate government. In the reference there is mention of the contesting respondent M/s Penguin Electronics only and M/s

Prithi Kitchens is not a party to the reference received from the appropriate government. Moreso, *vide* separate statements Ld. Counsel/AR for the petitioner did not press the claim petition against the respondent M/s Prithi kitchen Appliances Ltd. The statement is placed on record. As per the settlement arrived at between the parties, it is agreed upon that all the workers would get the retrenchment compensation along-with other benefits such as one month's salary, gratuity, leave encashment etc. It is also asserted that all the workers who are willing to do work will submit their resignation and will get all the financial benefits from the previous owner M/s Prithi Kitchen. Another settlement arrived at between the parties dated 20.02.2020 (R-1), which was executed between the respondent management and representatives of the workers union under the egis of INTUC President Shri Hardeep Baba whereby it was agreed that all the workers who are not willing to work shall tender their resignations which will be accepted by the respondent management and thereafter the respondent management shall pay full & final settlement amount to each and every worker.

24. Hence, as per the settlement Ex R-1 between the parties under section 18(1) of the Act which has been executed between the parties to which the representative of the workmen as well as representatives of the management put their signatures and witnesses by INTUC President Shri Hardeep Baba. The aforesaid settlement was duly registered with the Labour Officer.

25. Before proceeding further, it is apposite to mention the relevant provisions of the Act. Therefore, I deem it proper to reproduce section 18 of the Act, which reads as under:

**“Persons on whom settlements and awards are binding: (1) A settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.**

**(2) [Subject to the provisions of sub-section (3), an arbitration award] which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.]**

**(3) A settlement arrived at in the course of conciliation Proceedings under this Act [or an arbitration award in a case where a notification has been issued under sub-section (3A) of section 10A] or [an award of a Labour Court, Tribunal or National Tribunal] which has become enforceable] shall be binding on—**

**(a) all parties to the industrial dispute;**

**(b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board, [arbitrator,] 8\*[Labour Court, Tribunal or National Tribunal], as the case may be, records the opinion that they were so summoned without proper cause;**

**(c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;**

**(d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.”**

26. It is crystal clear from the perusal of the aforesaid provision of law that once the settlement is arrived at between the parties otherwise then in the course of conciliation proceeding

shall be binding on the parties to the agreement. Time and again it is argued that the said agreement was signed by one Shri Mukesh Kumar and Shri Yash Pal, who were not duly authorized by the petitioner, they were not examined. So far as concerning the settlement arrived at between the parties and bound on all the parties, it is settled proposition of law that settlement which was arrived at by an agreement between the company and its employees or workmen represented by their mazdoor/Trade Union only and it was arrived at otherwise than in the course of a conciliation proceeding. Accordingly, such bipartite settlement was binding in terms of section 18(1) of the Act. A settlement arrived at in the course of conciliation proceedings or otherwise than will be binding on all the workmen. The Court shall presume that the settlement arrived at otherwise than in the course of conciliation proceedings is just and fair. It becomes binding on all the parties and all the persons who have been subsequently effected by the said settlement in that establishment. I have carefully scrutinized the settlement (P-1) and is of the considered opinion that the said settlement is fair and legal and there is no illegality in the same.

27. Next comes the incriminating piece of evidence *i.e.* resignation letter dated 21.02.2020 (R-5) produced from the side of the respondent whereby the petitioner in his/her own handwriting had written that he/she is not in position to continue further with the job and thereby tendered his/her resignation for acceptance. The resignation is free from any kind of internal or external pressure. The said resignation has duly been accepted by the respondent. Moreso, in the payment voucher (R-4), the petitioner had by making endorsement with his/her own hand writing that he/she had received full & final settlement amount of Rs. 2,00,000/- (two lakhs) and now nothing is due in her favour from the respondent company. Another limb of the argument advanced before me by the respondent that during the course of arguments, it is argued that the signatures of the petitioner were obtained on blank papers. It is also argued that some of the workers were asked to sign in the closed dark room. Though, this fact has neither been pleaded nor proved on record. The onus of proving the alleged fact lies on the shoulder of the petitioner. The petitioner has miserably failed to prove by leading cogent, clear and clinching evidence that his signatures were either obtained in a dark room or on blank papers. It is settled law that a fact pleaded and not proved and similarly a fact proved and not pleaded are of no consequences. Here, the situation is different as the obtaining of signatures on blank paper that is too in dark room is neither pleaded nor proved. Consequently, a plea which is neither pleaded nor proved assumes no significance in the eyes of law. Such a plea/contention raised at bar is devoid of force and not tenable under law. It is also argued that some of the workers are illiterate and not in position to evaluate the consequences of their signatures and so on. It is satisfactorily proved on record that the submission of resignation in his own handwriting would not tantamount to any kind of tantrum as contemplated before me by the Ld. Counsel for the petitioner by citing lot of excuses. To my mind all these pleas are not sustainable and merely proved to be lame excuses. I failed to understand that if it is so than what was the occasion for the petitioner not to raise his voice for obtaining signatures on the blank paper and that in the dark closed room. After the acceptance of the resignation, the petitioner was duly paid full & final settlement amount of Rs. 2,00,000/- (two lakhs) in terms of settlement arrived at between the parties (R-1), on record. As a matter of fact, the settlement arrived at between the parties (R-1), tendering of resignation (R-5) and its acceptance by the respondent management, payment of Rs. 2,00,000/- (two lakhs) by the respondent management as full and final settlement to the petitioner are form natural corollary of the sequence of events which clearly established that the petitioner who had worked with the respondent company for less than one year was paid full & final amount of Rs. 2,00,000/- (two lakhs) as compensation. The entire averments averred in the resignation dated 21.2.2020 (R-5), nowhere depicts that it is a case of forced resignation. The resignation tendered by the petitioner is out of his free will and volition.

28. Their Lordship of Hon'ble High Court of Bombay in a case titled as ***Laffans India Pvt. Ltd. vs Pancham Singh Rawat And Another, Decided on 30 August, 2002, with equivalent citation 2003 (96) FLR 310, 2002 (4) MHLJ 470***, held as hereunder:

**“In my opinion, the award of the Labour Court cannot stand scrutiny even for a minute. No reasonable man could have come to the conclusion to which the Labour Court has come to, though the resignation letter was true and though the signature was admitted by the respondent workman and though he had received letter from the petitioner company that his resignation was accepted, it could be said that it was a forced resignation. It is a fact that from 17th December, 1993 or from 22nd December, 1993, the respondent workman at no point of time had complained to any authority under the law or to anyone including his union that he was forced to resign from employment or that he was forced to sign some blank papers and that such blank papers were used as his resignation letter. As rightly observed by the Labour Court in its earlier part of the Award that even in the demand letter submitted by the respondent workman after a period of 15 months, he did not whisper that his resignation was a forced resignation. It is absolutely unbelievable that if a workman is forced to resign he would keep quiet for a period of 15 months and would not take any action of any nature to protest against the force used by the employer to obtain such resignation letter. The delay of 15 months in raising demand itself is a crucial factor to discard totally the false theory of the workman that he was forced to resign or that his signature was taken on the blank papers or that such papers are used as resignation letter. In spite of more than sufficient material and evidence on record and though the Labour Court was satisfied about the factual aspect of the resignation I fail to understand how in the subsequent paragraphs of the award, the Labour Court has changed its flow of the award and reasoning for an resignation and come to a conclusion that the resignation was a forced resignation merely because the name of the respondent workman was not in the FIR. The finding of the Labour Court, therefore, is totally baseless and perverse and the same deserves to be quashed and set aside. Since the respondent workman had voluntarily resigned, there was no question of holding any domestic enquiry to punish the delinquent workman. It was entirely for the employer to accept resignation to simply get rid of the workman to buy peace and to save from the cost of enquiry or to hold an enquiry and punish. No inference of any nature can be drawn from the fact that the resignation was accepted as a short cut. In my opinion, there is nothing wrong or illegal or improper on the part of any employer to let his workman resign and leave even after the charge of a misconduct to avoid litigation and to avoid any stigmatic order which would also be not in the interest of the workman. It is not compulsory for the employer to hold an enquiry and punish his employee if the latter peacefully and voluntarily leaves the employment. Often such short cuts are also beneficial for both. There was absolutely no valid ground and justification for the Labour Court to hold that the resignation was a forced one and therefore, amounted to illegal termination to granting an amount of Rs. 1,25,000/- as compensation in lieu of reinstatement. The Labour Court has rightly commented that the conduct of the workman was not like a man of ordinary prudence. Any man of ordinary prudence, even a peon like the respondent workman would raise an alarm or protest as soon as he had received a letter from respondent company that his resignation was accepted. He would have immediately approached some authority or his union or the Government labour officer to say that he had never resigned but his resignation was taken forcibly or that his signature was taken on blank papers. In spite of its correct appreciation of evidence by the Labour Court, I fail to understand how the Labour Court has in the later portion of its award accepted the theory of forced resignation. There is absolutely no merit in the case of the workman.”**

29. Bearing in mind the attendant facts and circumstances of the case as well oral and the documentary evidence as well and after considering the final arguments, my inference is that the

services of the workman have not been terminated illegally rather the petitioner had submitted resignation voluntarily.

30. Moreso, during the course of arguments, it is argued on behalf of the Ld. Counsel for workman that resignation can be withdrawn at any time, the withdrawal of the resignation by the claimant is a valid and he continues to be in service of the management. In my opinion this argument is on the fact of it false since the resignation of the claimant dated 21.02.2020, was duly accepted on the same day and it has become final and it cannot be withdrawn on subsequent date. Here, I am supported by Hon'ble Supreme Court judgment in **Raj Kumar Vs. UOI, AIR 1969 SC 180, decided on 18.04.1968** wherein it was held that :

**"when a person has tendered his resignation his services clearly stands terminated from the date on which the letter of resignation is accepted by the authority and in the absence of any law or rule governing the conditions of his service to the contrary, it will not be open to the person to withdraw his resignation after it was accepted by the authority."**

31. I am also supported by Hon'ble High Court of Delhi in **Deepak Kumar Bali Vs. HMT, (2009) III LLJ**, wherein it has been held as under:

**"the resignation letter was considered as not spontaneous. In the present case it is not in dispute that the job of the appellant was transferable. The appellant was transferred to Pinjore but refused to join the new station and instead made representations against the same. Since the appellant did not join there was no option left with the respondent management but to start disciplinary proceedings. A very important fact to be noted is that at no stage the appellant challenged the transfer order in any legal proceedings. At the stage when the disciplinary proceedings were reaching a conclusion against the appellant, the appellant in his wisdom thought it appropriate to resign and go out of service. It was the option with the appellant to either challenge the transfer order or to contest the disciplinary proceedings but instead of challenging the transfer order he chose to resign. His resignation was accepted as the management as the management also in its wisdom thought it appropriate to let go of him and all his dues were paid. The dues sent by the respondent Management were appropriated by the appellant. The appellant having appropriated the dues, thereafter sought to rake up the issue of the resignation being under duress or pressure."**

32. I also placed reliance in **Gujarat State Road Transport Corporation Vs. Shankarbhai Maljibhai Sandhwa, 2006 LLR 281**, it was held that :

**"the resignation after it is accepted again be withdrawn and once the resignation is accepted, no relationship of master and servant existed thereafter. "**

33. Similarly, reliance is placed on **Rukshana Eisa Vs. Union of India & Ors., 2008 LLR 86 of Bombay High Court**, wherein it was held that :

**"after valid acceptance it is not permissible to withdraw ID No. 501/06 9/10 the resignation."**

34. I am also fortified by the decision of the Hon'ble Gujarat High Court in **H.M.P Engineers Ltd. Fatehnagar Vs. R. Kashi Naidu, 2010 LLR 252**, wherein it is held that :

**"once the workman voluntarily resigned on accepting voluntary Separation Scheme, and it being duly accepted, he cannot later on withdraw his option."**

35. For the foregoing reasons, as a binding precedent as well the distinct facts and circumstances of the case and also in view of above stated reasons, it is held that the workman/petitioner has voluntarily resigned from service and he has not been terminated illegally by the management. The plea taken from the side of the petitioner that he was forced to tender his resignation is also not tenable under law as he has failed to place/prove on record any complaint to the authorities in this regard. Accordingly, this issue is answered in negative.

*ISSUE NO. 2.*

36. In support of this issue no evidence has been led by the respondent, which could go to show that as to how the present claim petition is neither competent nor maintainable in the present form especially when the same has been presented before the Court in pursuance to the reference notification received from the appropriate government. The issue in question is answered in negative.

*RELIEF*

37. As a Sequitor, in view of my above discussion, evaluation and findings on issues no.1& 2, **the merits of the claim petition of the petitioner deserves dismissal and the same is hereby dismissed.** Consequently, the present reference is answered in negative as it is held that the workman/petitioner has voluntarily resigned from service and he/she has not been terminated illegally. He/she is not entitled for any sort of relief from this Court/Tribunal.

38. Let a copy of this award be sent to the appropriate Government for publication as per law. File be consigned to the record room after necessary compliance by Ahlmad.

Ordered accordingly.

Announced in the open Court today this 16th day of October, 2023

Sd/-

(KRISHAN KUMAR)

*Presiding Judge,*

*Industrial Tribunal-cum-Labour Court, Shimla.*

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**IN THE COURT OF Sh. KRISHAN KUMAR, PRESIDING JUDGE, H.P. INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Reference Number : 277 of 2021

Instituted on : 14.12.2021

Decided on : 16.10.2023

Sh. Joginder Singh, s/o Shri Bhaga Ram, Village Nangal Uparia, P.O. Nagai, District Solan, H.P. . .Petitioner.

*VERSUS*



1. The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P.

2. M/s Preethi Kitchen Appliances Pvt. Ltd., (Unit-III), Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P Through its Managing Director. . .Respondent.

### Reference petition under section 10 of the Industrial Dispute Act, 1947

For the Petitioner : Ms. Neetu Sharma, Advocate  
and Shri J.C. Bhardwaj, AR.

For the Respondents : Sh. Rajeev Sharma, Advocate.

### AWARD

The following reference petition has been, received from the Appropriate Government *vide* notification dated 25.06.2021, under section 10 of the Industrial Dispute Act, 1947 (**hereinafter referred to be as the Act**), for its legal adjudication, as under:

**“Whether the demand of Sh. Joginder Singh, s/o Shri Bhaga Ram, Village Nangal Uparia, P.O. Nagai, District Solan, H.P. for his reinstatement in service before the management i.e. the Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?” and if not its effect?”**

2. Material facts necessary for the disposal of present reference petition as described in the statement of claim are thus that the petitioner was engaged as a Technician with M/s Prithi Kitchen Appliances Pvt. Ltd. (unit III) Village Sallewal Bharatgarh Road, Tehsil Nalagarh (**hereinafter to be referred as M/s Prithi Kitchen**) since 16.06.2014 and remained as such till his illegal removal from the company on 15.02.2019. As a matter of record, M/s Prithi Kitchen was taken over by the M/s Penguin Electronics Ltd. and the petitioner was pressurized by M/s Prithi Kitchen to apply for fresh recruitment with respondent and as such on 26.02.2019, the petitioner applied to the respondent company and remained as such, till he was illegally terminated by the respondent company (Penguin Electronics) on 20.02.2020 on the ground that the company is being closed. The very action of the respondent to terminate the services of the petitioner is biased, unfair and unreasonable. The respondent management had forcibly and illegally obtained the signatures of the petitioner on some blank papers and thereafter started causing interference and hindrances in the joining of the duty by saying that there is no necessity, as the company is going to be closed. The petitioner had requested the respondent company to allow him to join his duties but to no avail. The termination of the petitioner from service without affording any opportunity and conducting any domestic enquiry is illegal and not sustainable in the eyes of law.

3. In the footnote of the petition, the following prayer clause has been appended, which reads as under:

**“It is therefore prayed that this Hon’ble Court may kindly be pleased to declare the so called settlement, the coercive, resignation and termination null, void and inoperative**

**by the respondent on 20.2.2020 and allow the petition of the petitioner /claimant thereby directing the respondent/management to reinstate the services of the claimant/petitioner in the respondent company with full back-wages, seniority and other consequential service benefits throughout with costs.”**

4. The lis was resisted and contested by respondent by filing written reply on *inter-alia* preliminary objections of maintainability, full and final settlement arrived at between the parties, the petitioner had not approached the Court with clean hands, claim is bad in the eyes of law, not a legal reference, mis-joinder of necessary parties and the petitioner has tendered his resignation, which was duly accepted by the respondent and a sum of Rs. 2 lacs has been disbursed as full & final settlement amount to the petitioner.

5. On merits, it is submitted that the respondent company had purchased the plant and machines from its erstwhile previous owner M/s Prithi Kitchen. As per the agreement, the respondent was ready to retain the petitioner along-with other workers, in consequences of conciliation meetings held and settlement arrived between the respondent company and workers on 15.02.2019. As per the settlement, it was agreed upon that the workers who were interested to work shall resign from the previous company after receiving all the financial benefits and thereafter join the respondent company along-with other workers, as such, the petitioner had joined as a fresh recruit with the respondent company since 26.02.2019, after receiving full & final financial benefits from the previous company *i.e.* M/s Prithi Kitchen. However, the workers who were not interested to work with the respondent company shall get three months' notice period wages, retrenchment benefits, as per section 25-F of the Act, gratuity and all the financial benefits, as are applicable to them at the time of full and final settlement. With the passage of time, the respondent company found it difficult to run the unit, as the situation deteriorated within no time and the production had gone down drastically. The respondent company offered its employees/workers to transfer some of them to some other unit but the petitioner was not ready and through their representatives recognized workers union (INTUC) represented by its office bearers under the guidelines of the Baba Hardeep Singh entered into a settlement with the authorized representatives of the respondent company on 20.02.2020. As per this settlement, the respondent company had agreed to pay the consolidate sum of Rs. 2,00,000/- (Two Lacs) to each and every worker. It is denied that the petitioner was, in any manner, forced to tender the resignation. It is also denied that the signatures of the petitioner on blank papers were obtained. In fact, the petitioner and other co-workers had voluntarily tendered their resignation as per the settlement dated 20.02.2020 and received the full & final financial dues as applicable to them as per the settlement. It is, therefore prayed, that the claim petition may kindly be dismissed in the interest of justice.

6. While filing rejoinder, the petitioner controverted the averments made thereto in the reply filed by respondent and reaffirmed and reiterated those raised in the claim petition. It is averred that the resignation was taken from the petitioner forcibly, illegally and also by misrepresentation of the true facts. It is denied that the present reference is not legal reference and the claim petition was filed beyond the terms of reference.

7. On elucidating the pleading of parties, the following issues were struck down by this Tribunal, for its final determination, *vide* zimni order dated 23.09.2022, which reads as under:

1. Whether the demand of the petitioner for her reinstatement in service before the management of respondent company after submitting her resignation as per settlement dated 20.02.2020 arrived at between the respondent management and petitioner union, after receiving full and final amount of Rs. 2 Lakh as per settlement, is improper and unjustified? If yes, what relief the petitioner is entitled to and its effect? . . .*OPP.*

2. Whether the claim petition is neither competent nor maintainable in the present form, as alleged? . . . OPR.

3. Relief

8. Henceforth, parties to the dispute were asked to adduce oral as well as documentary evidence in support of their respective claims or issues so framed.

9. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

10. For the reasons to be recorded hereinafter, while discussing issues for determination, my findings on the point-wise issues, are as under:

Issue No.1 : No

Issue No.2 : No

Relief : Reference answered in negative and the claim petition is ordered to be dismissed, as per operative part of award.

### REASONS FOR FINDINGS

#### ISSUE NO.1.

11. In order to substantiate its case, the petitioner had appeared into the witness dock as (PW-1) and tendered into evidence his sworn in affidavit (PW-1/A), wherein he had categorically reiterated almost all the averments, made thereto in the claim petition.

12. In cross-examination, the petitioner had testified that initially he was engaged with M/s Prithi Kitchen. He further admitted that there was a union in the M/s Prithi Kitchen. He had feigned ignorance that M/s Prithi Kitchen was taken over by the M/s Penguin Electronics Ltd. He admitted that on the directions of the Hon'ble High Court, the matter was referred to the Labour Officer, where full & final settlement was paid by Prithi Kitchen. He again admitted to have joined as fresh hand with Penguin Ltd. He further admitted that he had not completed one year service with the Penguin Ltd. He again admitted that he was paid salary for no work. He feigned ignorance that the dispute was raised before the Labour Officer. She again admitted that a sum of Rs. 2,00,000/- (two lakhs) were paid by the Penguin Ltd. towards settlement. He denied that he tendered his resignation and received full and final settlement. He further denied that he tendered resignation out of her free will and volition. He had also denied that after receiving full & final settlement, he is not entitled for re-instatement.

13. To refute the allegations of the petitioner, the respondent had examined Shri Surender Singh Bisht, presently posted as Labour Officer, Baddi as (RW-1), who proved on record the settlement arrived at between the parties dated 20.02.2020 registered on 25.02.2020 (R-1) and settlement between the parties dated 15.02.2019 (R-2).

14. In cross-examination, he admitted that the worker is not a signatory to settlement (R-1). Volunteered that it was signed by their representatives. He further admitted that the settlement (R-2) was also signed by the union representatives.

15. Smt. Shalu Chandel, Manager (HR) of respondent company appeared into the witness box as (RW-2), who had tendered into evidence her sworn in affidavit (RW-2/A), wherein she also reiterated almost all the averments as made thereto in the reply. She also tendered into evidence the letter of appointment (R-3), payment voucher (R-4), registration letter (R-5), reply to demand notice (R-6) and letter Mark RX-1, on record.

16. In cross-examination, the respondent witness duly admitted that there was a business transfer agreement executed between the two giants *i.e.* M/s Prithi Kitchen and M/s Penguin Electronics Ltd., in the year 2019. She admitted that there was an ascertaining of these settlements arrived at before the Conciliation-cum-Labour Officer under section 12(3) and 18(1) were executed between the management and the workers representatives/union. She admitted that the workers are not a signatory to the aforesaid settlements. She denied that the respondent management had approached the Government for closure of the company under section 25-FFF of the Act, in the year 2020. She further denied that the resignation of the workers were obtained forcibly by the management and the workers union. She denied that the acceptance of the resignation was not conveyed to the workmen. Volunteered that the workers put their signatures on the payment voucher out of their free will and consent and again submitted resignation free and voluntarily made. She denied that the management had put the pressure on the workers.

17. This is the entire oral as well as documentary evidence adduced from the side of the parties.

18. Ms. Neetu Sharma, Advocate and Shri J.C Bhardwaj, Ld. Counsel and AR for the petitioner has contended with all vehemence that the settlement was neither signed by the workers personally nor they have authorized anyone to sign the settlement on their behalf in this regard. Since, there is no authorization as per the prescribed performa F has been proved by the respondent, hence, the settlement arrived at between the representatives of the workers and management is not a legal settlement executed between the parties. They further argued that the settlement has been signed between the management and some of the representatives namely Shri Mukesh and Shri Yashpal under section 18(1) of the Act, hence, this settlement is not at all binding on the petitioner and it is only applicable on the signatory of the settlement. The management of the respondent company has not produced the best evidence by not examining the signatories *i.e.* Shri mukesh and Shri Yashpal to the settlement, which could go to show that under which capacity they have signed the settlement, hence, the settlement executed, if any, ultimately required to be set aside and quashed. She also argued that the settlement amount, if any, is proved against the workers, the same can be deducted at the rate of 25% per month from the salary of the workers. She argued that the payment of three months salary is required to be paid to each workmen as more than 100 workmen were working at the time of so called settlement. It is not at all understandable that why the respondent paid Rs. 2,00,000/- (two lakhs) to the petitioner without any valid conciliation effected interse the parties, which clearly shows that the respondent management had resorted to an unfair labour practice and victimization of the petitioner/workers. She argued that if the workers have submitted their resignation voluntarily then what would be the need for the settlement and with whom and why these settlements were not signed before the Labour-cum-Conciliation Officer. There is no acceptance of the resignation in these settlements. There is no proof placed on record that the settlement amount has been withdrawn by the workmen. It is argued that one hand the company is alleging the amicable settlement but in other hand tendering of resignation, therefore the present case is clear cut example of unfair labour practice as the resignation and settlements were arrived in the wake that the company is being closed. There is a bulk resignations obtained under section 25-FFF of the Act, however, the company is still in working condition, hence, the same amounts to an illegal retrenchment. They prayed that the petitioner be reinstated in service with all consequential service benefits including full back-wages in the interest of justice.

19. Ld. Counsel and AR for the petitioner also placed reliance on the case law **M/s Oswal Agro ltd. Vs. Oswal Agro worker Union 2005 LLR 305 (SC) and Workmen of Minakshi Mill Vs. Minakshi Mill Ltd. And another 1992 LLR 481 (SC)**.

20. **Per contra**, Shri Rajiv Sharma, Ld. Counsel for the respondent vigorously urged that the provisions of section 25-N of the Act would not be applicable in the present facts and circumstances of the case as the workers have not been in continuous service for not less than one year and they had not been retrenched by the respondent employer. It is not at all a case of retrenchment, rather he argued that it is the simplicitor case of tendering resignation out of free will and consent. After acceptance of the resignation a sum of Rs. 2,00,000/- (two lakhs) as per settlement has been paid to the petitioner. He further argued that it is quite apparent from the reference received from the appropriate government that each and every workers have been paid Rs. 2,00,000/- (two lakhs) settlement amount for less than one year of service. The documentary evidence filed by the respondent would clearly established that it is a case of clear cut tendering of resignation and not retrenchment. It is settled law that once the resignation is tendered and the same has been accepted by the appropriate authority, thereafter the same cannot be withdrawn. It is not established on record that had it been a case of obtaining signatures on blank papers or tendering resignation forcibly then why the petitioner had remained slumbered over the matter for such a pretty long period, till the raising of the demand notice. Neither the petitioner reported the matter to the Police nor brought the same to the notice of the Labour Commissioner or the higher authorities. The plea of submitting bulk resignations is also not tenable. The entire case raised from the side of the petitioner is crystal clear from the tone and tenor of the reference itself that after submitting the resignation and settlement arrived between the parties dated 20.02.2020 and after receiving full & final amount of Rs. 2,00,000/- (two lakhs) as per clause of the said agreement is proper and fair. Therefore, he prayed for the dismissal of the claim petition. He also placed reliance on the case law **Globe Ground India Employees Vs. Lufthansa German Airlines decided on 23.4.2019**.

21. I have given my best anxious considerable thought to the respective submissions of the Learned Counsel for the parties and have also scrutinized the entire case record with minute care, caution and circumspection.

22. Thus, from a careful and meticulous examination of the entire case record, it is manifestly clear on record that the petitioner was engaged as a Technician with a erstwhile previous company i.e. M/s Prithi Kitchens. It is proved to the satisfaction of the Court that the petitioner had worked as such till 15.02.2019 and thereafter M/s Prithi Kitchen was taken over by the respondent company. It is an admitted case of both the parties that the petitioner was engaged as fresh hand/recruited with the respondent company on 26.02.2019 and had worked as such till 20.02.2020. It is alleged that the signatures of the petitioner were obtained on some blank papers, therefore the alleged resignation is nothing but has been obtained forcibly by the respondent. On the other hand, the respondent had asserted that as per agreement executed between the previous owner i.e. M/s Prithi Kitchen, the respondent was ready to retain the workers and engage them as fresh recruit/hands. The petitioner was engaged as fresh hand and worked as such for a period of approx. 9-10 months but he was not at all interested to work further, therefore, conciliation proceedings were held and settlement was arrived between the parties and full and final settlement amount was paid to the petitioner.

23. Admittedly, there were as many as two settlements arrived on record, firstly under section 12(3) (R-2) and under section 18(1) (R-1), which were produced on record. On behalf of the petitioner no documentary proof has been supplied on record. Both these settlements (R-1) and (R-2) produced on record were duly registered with the Labour Officer, as proved on record. Though, the petitioner had arrayed the previous company M/s Prithi Kitchens as one of the contesting respondent, but, Ld. Counsel for the petitioner *vide* separate statement stated at the bar

that the petitioner do not want any substantive relief against the previous owner and there by the petitioner had restricted his/her claim to the contesting respondent *i.e.* M/s Penguin Electronics. Similar is the situation arises from the reference received from the appropriate government. In the reference there is mention of the contesting respondent M/s Penguin Electronics only and M/s Prithi Kitchens is not a party to the reference received from the appropriate government. Moreso, *vide* separate statements Ld. Counsel/AR for the petitioner did not press the claim petition against the respondent M/s Prithi kitchen Appliances Ltd. The statement is placed on record. As per the settlement arrived at between the parties, it is agreed upon that all the workers would get the retrenchment compensation along-with other benefits such as one month's salary, gratuity, leave encashment etc. It is also asserted that all the workers who are willing to do work will submit their resignation and will get all the financial benefits from the previous owner M/s Prithi Kitchen. Another settlement arrived at between the parties dated 20.02.2020 (R-1), which was executed between the respondent management and representatives of the workers union under the egis of INTUC President Shri Hardeep Baba whereby it was agreed that all the workers who are not willing to work shall tender their resignations which will be accepted by the respondent management and thereafter the respondent management shall pay full & final settlement amount to each and every worker.

24. Hence, as per the settlement Ex R-1 between the parties under section 18(1) of the Act which has been executed between the parties to which the representative of the workmen as well as representatives of the management put their signatures and witnesses by INTUC President Shri Hardeep Baba. The aforesaid settlement was duly registered with the Labour Officer.

25. Before proceeding further, it is apposite to mention the relevant provisions of the Act. Therefore, I deem it proper to reproduce section 18 of the Act, which reads as under:

**“Persons on whom settlements and awards are binding: (1) A settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.**

**(2) [Subject to the provisions of sub-section (3), an arbitration award] which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.]**

**(3) A settlement arrived at in the course of conciliation Proceedings under this Act [or an arbitration award in a case where a notification has been issued under sub-section (3A) of section 10A] or [an award of a Labour Court, Tribunal or National Tribunal] which has become enforceable] shall be binding on—**

**(a) all parties to the industrial dispute;**

**(b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board, [arbitrator,] 8\*[Labour Court, Tribunal or National Tribunal], as the case may be, records the opinion that they were so summoned without proper cause;**

**(c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;**

**(d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the**

**establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.”**

26. It is crystal clear from the perusal of the aforesaid provision of law that once the settlement is arrived at between the parties otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement. Time and again it is argued that the said agreement was signed by one Shri Mukesh Kumar and Shri Yash Pal, who were not duly authorized by the petitioner, they were not examined. So far as concerning the settlement arrived at between the parties and bound on all the parties, it is settled proposition of law that settlement which was arrived at by an agreement between the company and its employees or workmen represented by their mazdoor/Trade Union only and it was arrived at otherwise than in the course of a conciliation proceeding. Accordingly, such bipartite settlement was binding in terms of section 18(1) of the Act. A settlement arrived at in the course of conciliation proceedings or otherwise than will be binding on all the workmen. The Court shall presume that the settlement arrived at otherwise than in the course of conciliation proceedings is just and fair. It becomes binding on all the parties and all the persons who have been subsequently effected by the said settlement in that establishment. I have carefully scrutinized the settlement (P-1) and is of the considered opinion that the said settlement is fair and legal and there is no illegality in the same.

27. Next comes the incriminating piece of evidence *i.e.* resignation letter dated 21.02.2020 (R-5) produced from the side of the respondent whereby the petitioner in his/her own handwriting had written that he/she is not in position to continue further with the job and thereby tendered his/her resignation for acceptance. The resignation is free from any kind of internal or external pressure. The said resignation has duly been accepted by the respondent. Moreso, in the payment voucher (R-4), the petitioner had by making endorsement with his/her own hand writing that he/she had received full & final settlement amount of Rs. 2,00,000/- (two lakhs) and now nothing is due in his favour from the respondent company. Another limb of the argument advanced before me by the respondent that during the course of arguments, it is argued that the signatures of the petitioner were obtained on blank papers. It is also argued that some of the workers were asked to sign in the closed dark room. Though, this fact has neither been pleaded nor proved on record. The onus of proving the alleged fact lies on the shoulder of the petitioner. The petitioner has miserably failed to prove by leading cogent, clear and clinching evidence that his signatures were either obtained in a dark room or on blank papers. It is settled law that a fact pleaded and not proved and similarly a fact proved and not pleaded are of no consequences. Here, the situation is different as the obtaining of signatures on blank paper that is too in dark room is neither pleaded nor proved. Consequently, a plea which is neither pleaded nor proved assumes no significance in the eyes of law. Such a plea/contention raised at bar is devoid of force and not tenable under law. It is also argued that some of the workers are illiterate and not in position to evaluate the consequences of their signatures and so on. It is satisfactorily proved on record that the submission of resignation in his own handwriting would not tantamount to any kind of tantrum as contemplated before me by the Ld. Counsel for the petitioner by citing lot of excuses. To my mind all these pleas are not sustainable and merely proved to be lame excuses. I failed to understand that if it is so than what was the occasion for the petitioner not to raise his voice for obtaining signatures on the blank paper and that in the dark closed room. After the acceptance of the resignation, the petitioner was duly paid full & final settlement amount of Rs. 2,00,000/- (two lakhs) in terms of settlement arrived at between the parties (R-1), on record. As a matter of fact, the settlement arrived at between the parties (R-1), tendering of resignation (R-5) and its acceptance by the respondent management, payment of Rs. 2,00,000/- (two lakhs) by the respondent management as full and final settlement to the petitioner are form natural corollary of the sequence of events which clearly established that the petitioner who had worked with the respondent company for less than one year was paid full & final amount of Rs. 2,00,000/- (two lakhs) as compensation. The entire averments averred in the

resignation dated 21.2.2020 (R-5), nowhere depicts that it is a case of forced resignation. The resignation tendered by the petitioner is out of his free will and volition.

28. Their Lordship of Hon'ble High Court of Bombay in a case titled as *Laffans India Pvt. Ltd. vs Pancham Singh Rawat And Another, Decided on 30 August, 2002, with equivalent citation 2003 (96) FLR 310, 2002 (4) MHLJ 470*, held as hereunder:

“In my opinion, the award of the Labour Court cannot stand scrutiny even for a minute. No reasonable man could have come to the conclusion to which the Labour Court has come to, though the resignation letter was true and though the signature was admitted by the respondent workman and though he had received letter from the petitioner company that his resignation was accepted, it could be said that it was a forced resignation. It is a fact that from 17th December, 1993 or from 22nd December, 1993, the respondent workman at no point of time had complained to any authority under the law or to anyone including his union that he was forced to resign from employment or that he was forced to sign some blank papers and that such blank papers were used as his resignation letter. As rightly observed by the Labour Court in its earlier part of the Award that even in the demand letter submitted by the respondent workman after a period of 15 months, he did not whisper that his resignation was a forced resignation. It is absolutely unbelievable that if a workman is forced to resign he would keep quiet for a period of 15 months and would not take any action of any nature to protest against the force used by the employer to obtain such resignation letter. The delay of 15 months in raising demand itself is a crucial factor to discard totally the false theory of the workman that he was forced to resign or that his signature was taken on the blank papers or that such papers are used as resignation letter. In spite of more than sufficient material and evidence on record and though the Labour Court was satisfied about the factual aspect of the resignation I fail to understand how in the subsequent paragraphs of the award, the Labour Court has changed its flow of the award and reasoning for an resignation and come to a conclusion that the resignation was a forced resignation merely because the name of the respondent workman was not in the FIR. The finding of the Labour Court, therefore, is totally baseless and perverse and the same deserves to be quashed and set aside. Since the respondent workman had voluntarily resigned, there was no question of holding any domestic enquiry to punish the delinquent workman. It was entirely for the employer to accept resignation to simply get rid of the workman to buy peace and to save from the cost of enquiry or to hold an enquiry and punish. No inference of any nature can be drawn from the fact that the resignation was accepted as a short cut. In my opinion, there is nothing wrong or illegal or improper on the part of any employer to let his workman resign and leave even after the charge of a misconduct to avoid litigation and to avoid any stigmatic order which would also be not in the interest of the workman. It is not compulsory for the employer to hold an enquiry and punish his employee if the latter peacefully and voluntarily leaves the employment. Often such short cuts are also beneficial for both. There was absolutely no valid ground and justification for the Labour Court to hold that the resignation was a forced one and therefore, amounted to illegal termination to granting an amount of Rs. 1,25,000/- as compensation in lieu of reinstatement. The Labour Court has rightly commented that the conduct of the workman was not like a man of ordinary prudence. Any man of ordinary prudence, even a peon like the respondent workman would raise an alarm or protest as soon as he had received a letter from respondent company that his resignation was accepted. He would have immediately approached some authority or his union or the Government labour officer to say that he had never resigned but his resignation was taken forcibly or that



**his signature was taken on blank papers. In spite of its correct appreciation of evidence by the Labour Court, I fail to understand how the Labour Court has in the later portion of its award accepted the theory of forced resignation. There is absolutely no merit in the case of the workman."**

29. Bearing in mind the attendant facts and circumstances of the case as well oral and the documentary evidence as well and after considering the final arguments, my inference is that the services of the workman have not been terminated illegally rather the petitioner had submitted resignation voluntarily.

30. Moreso, during the course of arguments, it is argued on behalf of the Ld. Counsel for workman that resignation can be withdrawn at any time, the withdrawal of the resignation by the claimant is a valid and he continues to be in service of the management. In my opinion this argument is on the fact of it false since the resignation of the claimant dated 21.02.2020, was duly accepted on the same day and it has become final and it cannot be withdrawn on subsequent date. Here, I am supported by Hon'ble Supreme Court judgment in **Raj Kumar Vs. UOI, AIR 1969 SC 180, decided on 18.04.1968** wherein it was held that :

**"when a person has tendered his resignation his services clearly stands terminated from the date on which the letter of resignation is accepted by the authority and in the absence of any law or rule governing the conditions of his service to the contrary, it will not be open to the person to withdraw his resignation after it was accepted by the authority."**

31. I am also supported by Hon'ble High Court of Delhi in **Deepak Kumar Bali Vs. HMT, (2009) III LLJ**, wherein it has been held as under:

**"the resignation letter was considered as not spontaneous. In the present case it is not in dispute that the job of the appellant was transferable. The appellant was transferred to Pinjore but refused to join the new station and instead made representations against the same. Since the appellant did not join there was no option left with the respondent management but to start disciplinary proceedings. A very important fact to be noted is that at no stage the appellant challenged the transfer order in any legal proceedings. At the stage when the disciplinary proceedings were reaching a conclusion against the appellant, the appellant in his wisdom thought it appropriate to resign and go out of service. It was the option with the appellant to either challenge the transfer order or to contest the disciplinary proceedings but instead of challenging the transfer order he chose to resign. His resignation was accepted as the management as the management also in its wisdom thought it appropriate to let go of him and all his dues were paid. The dues sent by the respondent Management were appropriated by the appellant. The appellant having appropriated the dues, thereafter sought to rake up the issue of the resignation being under duress or pressure."**

32. I also placed reliance in **Gujarat State Road Transport Corporation Vs. Shankarbhai Maljibhai Sandhwa, 2006 LLR 281**, it was held that :

**"the resignation after it is accepted again be withdrawn and once the resignation is accepted, no relationship of master and servant existed thereafter. "**

33. Similarly, reliance is placed on **Rukshana Eisa Vs. Union of India & Ors., 2008 LLR 86 of Bombay High Court**, wherein it was held that :

**"after valid acceptance it is not permissible to withdraw ID No. 501/06 9/10 the resignation."**

34. I am also fortified by the decision of the Hon'ble Gujarat High Court in **H.M.P Engineers Ltd. Fatehnagar Vs. R. Kashi Naidu, 2010 LLR 252**, wherein it is held that :

**"once the workman voluntarily resigned on accepting voluntary Separation Scheme, and it being duly accepted, he cannot later on withdraw his option."**

35. For the foregoing reasons, as a binding precedent as well the distinct facts and circumstances of the case and also in view of above stated reasons, it is held that the workman/petitioner has voluntarily resigned from service and he has not been terminated illegally by the management. The plea taken from the side of the petitioner that he was forced to tender his resignation is also not tenable under law as he has failed to place/prove on record any complaint to the authorities in this regard. Accordingly, this issue is answered in negative.

*ISSUE NO. 2.*

36. In support of this issue no evidence has been led by the respondent, which could go to show that as to how the present claim petition is neither competent nor maintainable in the present form especially when the same has been presented before the Court in pursuance to the reference notification received from the appropriate government. The issue in question is answered in negative.

*RELIEF*

37. As a Sequittor, in view of my above discussion, evaluation and findings on issues no.1& 2, **the merits of the claim petition of the petitioner deserves dismissal and the same is hereby dismissed**. Consequently, the present reference is answered in negative as it is held that the workman/petitioner has voluntarily resigned from service and he/she has not been terminated illegally. He/she is not entitled for any sort of relief from this Court/Tribunal.

38. Let a copy of this award be sent to the appropriate Government for publication as per law. File be consigned to the record room after necessary compliance by Ahlmad.

Ordered accordingly.

Announced in the open Court today this 16th day of October, 2023

Sd/-  
(KRISHAN KUMAR)  
Presiding Judge,  
Industrial Tribunal-cum-Labour Court, Shimla.

Sh. Bija Ram Bhardwaj

V/s

M/s Devyani Food Industries Ltd.

Ref. 99 of 2017

19.10.2023

Present:— Sh. B.R. Paswal, Ld. Csl. for petitioner

Sh. Rajeev Sharma, Ld. Csl. for respondent

The Ld. Csl. for the petitioner submits that the parties have amicably settled the dispute *vide* separate statement the petitioner stated that he has received an amount of Rs. 90,796/- in his account and do not want to persue the present reference No.-99 of 2017. Statement recorded and placed on record. The present reference is thus dismissed and withdrawn . Therefore, nothing survive in the present reference petition. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File, after completion be consigned to records.

Announced 19.10.2023

Sd/-

(KRISHAN KUMAR)

*Presiding Judge,  
Industrial Tribunal-cum-Labour Court, Shimla.*

ब अदालत श्री अजय सिंह, सहायक समाहर्ता द्वितीय श्रेणी, थुरल, जिला कांगड़ा (हि0प्र0)

मुकद्दमा तकसीम नं0 : 49 / 2023 / टी0टी0पी0

तारीख पेशी : 15-01-2024

श्री पुष्पेन्द्र सिंह, रजिन्द्र सिंह पुत्र व श्रीमती बीना देवी पुत्री कर्म सिंह, वासी महाल डूहक खूर्द, मौजा आलमपुर व तहसील थुरल, जिला कांगड़ा (हि0प्र0) प्रार्थीगण।

बनाम

श्री सुनील कुमार, सुधीर कुमार पुत्र श्रीमती सुनीता देवी आदि, वासी महाल डूहक खूर्द, मौजा आलमपुर व तहसील थुरल, जिला कांगड़ा (हि0प्र0) प्रतिवादीगण।

नोटिस बनाम : 1. श्री सुनील कुमार, सुधीर कुमार पुत्र सुनीता देवी, 2. श्रीमती रीता देवी पुत्री श्रीमती शांता देवी विधवा उत्तम सिंह, 3. संदीप कुमार पुत्र वृन्दा पुत्री सकुन्तला देवी विधवा लायक सिंह, 4. जयआनन्द सिंह, अनिरुध सिंह, महिन्द्र सिंह, सिकन्द्र सिंह पुत्र सुरेखा देवी पुत्री व विधवा देवी विधवा संसार चन्द, 5. कृपाल सिंह, मिलाप सिंह पुत्र पहाडु, 6. संजय कुमार, सचिन कुमार पुत्र सुनीता देवी पुत्री सुरेश देवी विधवा ध्रुव देव सिंह, 7. निशा राणी पुत्री सत्या देवी विधवा चंचल सिंह, 8. बुधी सिंह, यशपाल, केवल सिंह पुत्र बुधी सिंह, 9. धर्म सिंह, विहारी सिंह, कैलाश सिंह पुत्र शेर सिंह, 10. श्री विरेन्द्र कुमार, देवेन्द्र कुमार पुत्र शशी देवी पुत्री व श्रीमती कमला देवी विधवा गाजा सिंह, 11. पृथी चन्द, लखवीर सिंह पुत्र मनोरमा देवी पुत्री संध्या देवी पुत्री मुलतान सिंह, 12. सलोचना देवी, उर्मिला देवी पुत्रियां मुलतान सिंह, 13. श्री रवि कुमार, रजेस्वर, राकेश कुमार, राजीव कुमार पुत्र उषा देवी, राकेशां देवी, सुदेश, अनीता कुमारी पुत्रियां श्रीमती ज्ञानी देवी विधवा दिना नाथ, 14. कुशल सिंह, सुनील कुमार पुत्र वलराज सिंह, 15. कौशलया कुमारी विधवा विमल सिंह, 16. रविन्द्र सिंह पुत्र सुक्षमलता पुत्री श्रीमती विमला देवी विधवा प्रताप सिंह, 17. कुलतार सिंह पुत्र पंजाव सिंह, 18. नरेन्द्र सिंह पुत्र पूरना देवी विधवा पृथी चन्द, 19. गुलेर चन्द, अमरजीत सिंह पुत्र रोशन, समस्त निवासी महाल डूहक खूर्द, मौजा आलमपुर व तहसील थुरल, जिला कांगड़ा (हि0प्र0) प्रतिवादीगण।

विषय.—हि0प्र0 भू0—राजस्व अधिनियम, 1954 की धारा 123 के अन्तर्गत भूमि खेवट नं0 34, खतौनी नं0 35, खसरा कित्ता 8, रकबा तादादी 01—82—51 है0, वाक्या महाल डूहक खूर्द, मौजा आलमपुर व तहसील थुरल, जिला कांगड़ा (हि0प्र0) के भूमि विभाजन हेतु प्रार्थना—पत्र।

प्रार्थीगण श्री पुष्पेन्द्र सिंह, रजिन्द्र सिंह पुत्र व श्रीमती बीना देवी पुत्री कर्म सिंह, वासी महाल डूहक खूर्द, मौजा आलमपुर व तहसील थुरल, जिला कांगड़ा (हि0प्र0) ने इस अदालत में खाता नं0 34 का दावा भूमि तकसीम दायर कर रखा है जिसमें उपरोक्त वर्णित प्रतिवादीगण की तामील बार—बार समन जारी करने पर नहीं हो पा रही है और न ही प्रार्थीगण को इनका सही पता मालूम है। प्रार्थीगण ने इनका सही पता प्राप्त होने बारे अपनी असमर्थता जताई है। अतः न्यायालय की संतुष्टि व विश्वास हेतु यह सिद्ध हो गया है कि उक्त प्रतिवादीगण की तामील साधारण ढंग से नहीं हो सकती है। अतः उक्त वर्णित प्रतिवादीगण को इस इशतहार अखबारी व मुस्त्री मुनादी चंस्पागी द्वारा सूचित किया जाता है कि वह उक्त मुकद्दमा की पैरवी हेतु असालतन या वकालतन तारीख पेशी 15—01—2024 को हाजिर अदालत होकर पैरवी मुकद्दमा करें अन्यथा गैरहाजिरी की सूरत में एकतरफा कार्यवाही अमल में लाई जाकर आगामी आदेश पारित कर दिया जाएगा व बाद तारीख पेशी किसी किस्म का उजर या एतराज स्वीकार्य न होगा।

यह इशतहार मेरे हस्ताक्षर व मोहर अदालत से आज दिनांक 15—12—2023 को जारी हुआ।

मोहर।

हस्ताक्षरित /—  
सहायक समाहर्ता द्वितीय श्रेणी,  
थुरल, जिला कांगड़ा (हि0प्र0)।

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**In the Court of Marriage Officer-cum-Sub-Divisional Magistrate, Nagrota Bagwan,  
District Kangra (H.P.)**

1. Sh. Devinder Rana aged 34 years s/o Shri Jagat Ram, r/o Vill. Lalehar, P.O. Upperli Kothi, Tehsil Nagrota Bagwan, District Kangra (H.P.).

2. Manju Devi aged 24 years d/o Sh. Rajinder Kumar, r/o Vill. Lalhar, P.O. Tikkri, Tehsil Sihunta, District Chamba (H.P.).

*Versus*

General Public

Subject.— Notice for Registration of Marriage.

Applicants Sh. Devinder Rana aged 34 years s/o Shri Jagat Ram, r/o Vill. Lalehar, P.O. Upperli Kothi, Tehsil Nagrota Bagwan, District Kangra (H.P.) & Manju Devi aged 24 years d/o Sh. Rajinder Kumar, r/o Vill. Lalhar, P.O. Tikkri, Tehsil Sihunta, District Chamba (H.P.) have filed an application u/s 8 of Hindu Marriage Act, 1955 alongwith affidavits in the court of undersigned in which they have stated that they have solemnized their marriage on 14-12-2022 at Shree Chamunda Nandikeshwar Mandir Nyas Chamunda, Tehsil Dharamshala, District Kangra as per Hindu rites and customs.

Therefore, the general public is hereby informed through this notice that if any person having any objection regarding this marriage, can file the objections personally or in writing before

this court on or before 16-01-2024. The objection received after 16-01-2024, will not be entertained and marriage will be registered accordingly.

Issued today on 16-12-2023 under my hand and seal of the court.

Seal.

Sd/-

*Marriage Officer-cum-Sub-Divisional Magistrate,  
Nagrota Bagwan, District Kangra (H.P.).*

**In the Court of Marriage Officer-cum-Sub Divisional Magistrate, Nagrota Bagwan,  
District Kangra (H.P.)**

1. Sh. Vipin Kumar aged 33 years s/o Shri Uttam Chand, r/o Vill. Samyara, P.O. Chhu Ghera, Tehsil Baroh, District Kangra (H.P.).

2. Preeti Srivasav aged 26 years d/o Sh. Rajendra Prasad Srivastav, r/o Singaura, Gulriha, District Balrampur, Uttar Pradesh.

*Versus*

General Public

*Subject.*— Notice for Registration of Marriage.

Applicants Sh. Vipin Kumar age 33 years s/o Shri Uttam Chand, r/o Vill. Samyara, P.O. Chhu Ghera, Tehsil Baroh, District Kangra (H.P.) & Preeti Srivasav age 26 years d/o Rajendra Prasad Srivastav, r/o Singaura, Gulriha, District Balrampur, Uttar Pradesh have filed an application u/s 16 of Special Marriage Act, alongwith affidavits in the court of undersigned in which they have stated that they have solemnized their marriage on 13-07-2023 at Mansa Devi Temple Chamunda, Tehsil Dharamshala, District Kangra as per Hindu rites and customs.

Therefore, the general public is hereby informed through this notice that if any person having any objection regarding this marriage, can file the objections personally or in writing before this court on or before 22-01-2024. The objection received after 22-01-2024, will not be entertained and marriage will be registered accordingly.

Issued today on 22-08-2023 under my hand and seal of the court.

Seal.

Sd/-

*Marriage Officer-cum-Sub-Divisional Magistrate,  
Nagrota Bagwan, District Kangra (H.P.).*

**ब अदालत श्री अभिषेक भास्कर, कार्यकारी दण्डाधिकारी, जयसिंहपुर, जिला कांगड़ा (हि0प्र0)**

मु0 नं0 : 26/तह0/2023

तारीख पेशी : 23-01-2024

अमित शर्मा पुत्र श्री अनिरुद्ध शर्मा, निवासी टम्बरू, डा0 द्रमण, तहसील जयसिंहपुर, जिला कांगड़ा (हि0प्र0) व कनिका गुप्ता पुत्री श्री राजेश गुप्ता, निवासी मकान नं0 48/36, स्ट्रीट नं0 8, न्यू बस्ती, करोल बाग, मध्य दिल्ली-110 005 प्रार्थीगण।

बनाम

आम जनता

प्रतिवादी।

विषय.—मुस्त्री मुनादी व इश्तहार अखबारी/राजपत्र बराये विवाह दर्ज करने बारे।

प्रार्थीगण अमित शर्मा पुत्र श्री अनिरुद्ध शर्मा, निवासी टम्बरू, डा0 द्रमण, तहसील जयसिंहपुर, जिला कांगड़ा (हि0प्र0) व कनिका गुप्ता पुत्री श्री राजेश गुप्ता, निवासी मकान नं0 48/36, स्ट्रीट नं0 8, न्यू बस्ती, करोल बाग, मध्य दिल्ली-110005 ने स्वयं इस अदालत में हाजिर होकर प्रार्थना-पत्र मय ब्यान हल्फी पेश करके आवेदन किया है कि दिनांक 31-10-2020 को हिन्दू रीति-रिवाज के साथ शादी श्री सीता राम जी मन्दिर बीजापुर, तहसील जयसिंहपुर में सम्पन्न हुई थी। इस सन्दर्भ में प्रार्थीगण ने अपना शपथ-पत्र भी संलग्न किया है किन्तु अज्ञानतावश विवाह तिथि को सम्बन्धित ग्राम पंचायत के अभिलेख में दर्ज नहीं करवा सके हैं। अतः अपनी शादी को ग्राम पंचायत द्रमण में दर्ज करवाने बारे आवेदन किया है।

अतः प्रार्थीगण का आवेदन स्वीकार करते हुए इस इश्तहार मुस्त्री मुनादी व चस्पांगी के माध्यम से प्रतिवादी आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त शादी को दर्ज करने बारे कोई उजर या एतराज हो तो वह असालतन या वकालतन तारीख पेशी 23-01-2024 को दोपहर 2.00 बजे हाजिर अदालत होकर अपना उजर या एतराज पेश कर सकता है अन्यथा बाद गुजरने तारीख पेशी किसी किस्म का उजर एवं एतराज नहीं सुना जावेगा व उपरोक्त शादी दर्ज करने का आदेश सम्बन्धित स्थानीय उप-पंजीकार, सह ग्राम पंचायत अधिकारी, द्रमण को जारी कर दिया जायेगा।

यह इश्तहार मोहर अदालत व मेरे हस्ताक्षर से आज दिनांक 02-12-2023 को जारी हुआ।

मोहर।

हस्ताक्षरित/—  
कार्यकारी दण्डाधिकारी,  
जयसिंहपुर, जिला कांगड़ा (हि0प्र0)।

**ब अदालत श्री अभिषेक भास्कर, कार्यकारी दण्डाधिकारी, जयसिंहपुर, जिला कांगड़ा (हि0प्र0)**

मु0 नं0 : 27/तह0/2023

तारीख पेशी : 23-01-2024

श्रीमती किरणा देवी पुत्री श्री ज्ञान चन्द, निवासी कलूही, डा0 बन्दाहू, तहसील जयसिंहपुर, जिला कांगड़ा (हि0प्र0) हाल पत्नी स्व0 श्री रतन चन्द पुत्र मुन्शी राम, निवासी महेसड गुजरेहडा, डा0 दगोह, तहसील जयसिंहपुर, जिला कांगड़ा (हि0प्र0) प्रार्थीया।

बनाम

विषय.—मुस्त्री मुनादी व इश्तहार अखबारी/राजपत्र बराये विवाह दर्ज करने बारे।

प्रार्थिया श्रीमती किरणा देवी पुत्री श्री ज्ञान चन्द, निवासी कलूही, डा0 बन्दाहू, तहसील जयसिंहपुर, जिला कांगड़ा (हि0प्र0) हाल पत्नी स्व0 श्री रतन चन्द पुत्र मुन्शी राम, निवासी महेसड गुजरेहडा, डा0 दगोह, तहसील जयसिंहपुर, जिला कांगड़ा (हि0प्र0) ने स्वयं इस अदालत में हाजिर होकर प्रार्थना-पत्र मय ब्यान हल्फी पेश करके आवेदन किया है कि दिनांक 01-05-1995 को हिन्दू रीति-रिवाज के साथ गांव महेसड गुजरेहडा, डा0 दगोह, तहसील जयसिंहपुर में सम्पन्न हुई थी। इस सन्दर्भ में प्रार्थिया ने अपना शपथ-पत्र भी संलग्न किया है किन्तु अज्ञानतावश विवाह तिथि को सम्बन्धित ग्राम पंचायत के अभिलेख में दर्ज नहीं करवा सके हैं। अतः अपनी शादी को ग्राम पंचायत वड में दर्ज करवाने बारे आवेदन किया है।

अतः प्रार्थिया का आवेदन स्वीकार करते हुए इस इश्तहार मुस्त्री मुनादी व चस्पांगी के माध्यम से प्रतिवादी आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त शादी को दर्ज करने बारे कोई उजर या एतराज हो तो वह असालतन या वकालतन तारीख पेशी 23-01-2024 को दोपहर 2.00 बजे हाजिर अदालत होकर अपना उजर या एतराज पेश कर सकता है अन्यथा बाद गुजरने तारीख पेशी किसी किसम का उजर एवं एतराज नहीं सुना जावेगा व उपरोक्त शादी दर्ज करने का आदेश सम्बन्धित स्थानीय उप-पंजीकार, सह ग्राम पंचायत अधिकारी, वड को जारी कर दिया जायेगा।

यह इश्तहार मोहर अदालत व मेरे हस्ताक्षर से आज दिनांक 02-12-2023 को जारी हुआ।

मोहर।

हस्ताक्षरित /—  
कार्यकारी दण्डाधिकारी,  
जयसिंहपुर, जिला कांगड़ा (हि0प्र0)।

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**ब अदालत श्री अभिषेक भास्कर, कार्यकारी दण्डाधिकारी, जयसिंहपुर, जिला कांगड़ा (हि0प्र0)**

मु0 नं0 : 30 / तह0 / 2023

तारीख पेशी : 07-02-2024

1. श्री पंकज जसरोटिया पुत्र श्री सुरिन्द्र कुमार, निवासी गांव व डा0 हरोट, तहसील जयसिंहपुर, जिला कांगड़ा (हि0प्र0)।

2. तानिया राणा पुत्री राकेश राणा, निवासी नाऊ सेहरा, डा0 नाऊसेहरा, तहसील देहरा, जिला कांगड़ा (हि0प्र0) हाल पंकज जसरोटिया पुत्र श्री सुरिन्द्र कुमार, निवासी गांव व डा0 हरोट, तहसील जयसिंहपुर, जिला कांगड़ा (हि0प्र0) प्रार्थीगण।

बनाम

आम जनता

प्रतिवादी।

विषय.—मुस्त्री मुनादी व इश्तहार अखबारी/राजपत्र बराये विवाह दर्ज करने बारे।

प्रार्थीगण श्री पंकज जसरोटिया पुत्र श्री सुरिन्द्र कुमार, निवासी गांव व डा0 हरोट, तहसील जयसिंहपुर, जिला कांगड़ा (हि0प्र0) व तानिया राणा पुत्री राकेश राणा, निवासी नाऊ सेहरा, डा0 नाऊसेहरा, तहसील देहरा, जिला कांगड़ा (हि0प्र0) हाल पंकज जसरोटिया पुत्र श्री सुरिन्द्र कुमार, निवासी गांव व डा0 हरोट, तहसील

जयसिंहपुर, जिला कांगड़ा (हि0प्र0) ने स्वयं इस अदालत में हाजिर होकर प्रार्थना-पत्र मय ब्यान हल्फी पेश करके निवेदन किया है कि दिनांक 20-11-2021 को हिन्दू रीति-रिवाज के साथ गांव व डा0 हरोट, तहसील जयसिंहपुर में सम्पन्न हुई थी। इस सन्दर्भ में प्रार्थीगण ने अपना शपथ-पत्र भी संलग्न किया है किन्तु अज्ञानतावश विवाह तिथि को सम्बन्धित ग्राम पंचायत के अभिलेख में दर्ज नहीं करवा सके हैं। अतः अपनी शादी को ग्राम पंचायत हरोट में दर्ज करवाने बारे आवेदन किया है।

अतः प्रार्थीगण का आवेदन स्वीकार करते हुए इस इशतहार मुस्त्री मुनादी व चस्पांगी के माध्यम से प्रतिवादी आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त शादी को दर्ज करने बारे कोई उजर या एतराज हो तो वह असालतन या वकालतन तारीख पेशी 07-02-2024 को दोपहर 2.00 बजे हाजिर अदालत होकर अपना उजर या एतराज पेश कर सकता है अन्यथा बाद गुजरने तारीख पेशी किसी किस्म का उजर एवं एतराज नहीं सुना जावेगा व उपरोक्त शादी दर्ज करने का आदेश सम्बन्धित स्थानीय उप-पंजीकार, सह ग्राम पंचायत अधिकारी, हरोट को जारी कर दिया जायेगा।

यह इशतहार मोहर अदालत व मेरे हस्ताक्षर से आज दिनांक 08-12-2023 को जारी हुआ।

मोहर।

हस्ताक्षरित /—  
कार्यकारी दण्डाधिकारी,  
जयसिंहपुर, जिला कांगड़ा (हि0प्र0)।

ब अदालत श्री अजय कुमार, कार्यकारी दण्डाधिकारी, थुरल, जिला कांगड़ा (हि0प्र0)

मुकद्दमा नं0 : 22 / 2023

तारीख पेशी : 25-01-2024

किस्म प्रकरण : जन्म पंजीकरण

श्रीमती मीना कुमारी पुत्री श्री पृथी चन्द, वासी गांव भाटी लोहार पगां, डा0 सांई, तहसील थुरल, ग्राम पंचायत भ्रांता, जिला कांगड़ा (हि0प्र0) प्रार्थिया।

बनाम

आम जनता

प्रतिवादी।

विषय.—जन्म व मृत्यु पंजीकरण अधिनियम, 1969 की धारा 13(3) के तहत जन्म पंजीकरण हेतु प्रार्थना-पत्र।

श्रीमती मीना कुमारी पुत्री श्री पृथी चन्द, वासी गांव भाटी लोहार पगां, डा0 सांई, तहसील थुरल, ग्राम पंचायत भ्रांता, जिला कांगड़ा (हि0प्र0) ने इस अदालत में असालतन हाजिर होकर प्रार्थना-पत्र मय ब्यान हल्फी पेश करते हुए आवेदन किया है कि उसका जन्म दिनांक 24-10-1969 को गांव भाटी लोहार पगां, डा0 सांई, तहसील थुरल, ग्राम पंचायत भ्रांता, जिला कांगड़ा में हुआ है परन्तु अज्ञानतावश उसके जन्म का पंजीकरण स्थानीय ग्राम पंचायत अभिलेख में दर्ज न करवाया गया है। अतः प्रार्थिया इस न्यायालय के माध्यम से अपने जन्म का पंजीकरण करने का आदेश ग्राम पंचायत भ्रांता को जारी करवाना चाहती है।

अतः प्रार्थिया का आवेदन स्वीकार करते हुए इस इशतहार मुस्त्री मुनादी द्वारा आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति या संस्था को उपरोक्त की जन्म तिथि 24-10-1969 के पंजीकरण बारे कोई उजर एवं एतराज हो तो वह असालतन या वकालतन तारीख पेशी 25-01-2024 को हाजिर अदालत होकर अपना उजर व एतराज पेश कर सकता है। बाद तारीख पेशी किसी किस्म का उजर एवं एतराज नहीं



सुना जावेगा व उपरोक्त श्रीमती मीना कुमारी पुत्री श्री पृथी चन्द की जन्म तिथि को पंजीकृत करने का आदेश उप-स्थानीय पंजीकार, जन्म व मृत्यु, ग्राम पंचायत भ्रांता को पारित कर दिया जाएगा।

यह इशतहार मेरे हस्ताक्षर व मोहर अदालत से आज दिनांक 18-12-2023 को जारी हुआ।

मोहर।

हस्ताक्षरित /—  
कार्यकारी दण्डाधिकारी,  
थुरल, जिला कांगड़ा (हि0प्र0)।

**ब अदालत सहायक समाहर्ता द्वितीय श्रेणी, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0)**

मिसल नं0 : 56/एन0टी/2018

तारीख पेशी : 30-01-2024

तिलक राज, रणजीत सिंह, सुष्मा देवी, कुशमा देवी वारसान जय चन्द, विमला देवी पत्नी जय चन्द, कुशल चन्द सुपुत्र साहिव सिंह, सुदेश कुमारी सुपुत्री साहिव सिंह, समस्त निवासीयान महाल मझैरना उपरला, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0) प्रार्थीगण।

**बनाम**

1. सुभाशना देवी पत्नी हरनाम, 2. सुनील कुमार सुपुत्र हरनाम, 3. पूजा देवी सुपुत्री हरनाम, 4. रामेशवरी देवी पत्नी सतीश चन्द, 5. नीरज कुमार सुपुत्र, सतीश चन्द, 6. मिनाक्षी देवी सुपुत्री सतीश चन्द, समस्त निवासीयान महाल मझैरना, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0) प्रतिवादीगण।

नोटिस बनाम।

विषय.—हि0 प्र0 भू-राजस्व अधिनियम, 1954 की धारा 123 के अन्तर्गत भूमि खेवट भूमि खाता नं0 32, खतौनी नं0 89, खसरा कित्ता 837, रकबा 00-25-14 है0, स्थित महाल Majherna Upperla, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0) जमाबन्दी वर्ष 2011-2012.

प्रार्थी तिलक राज, रणजीत सिंह, सुष्मा देवी, कुशमा देवी, वारसान जय चन्द, विमला देवी पत्नी जय चन्द, कुशल चन्द सुपुत्र साहिव सिंह, सुदेश कुमारी सुपुत्री साहिव सिंह, समस्त निवासीयान महाल मझैरना उपरला, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0) ने इस कार्यालय में खाता नं0 32 का दावा भूमि तकसीम दायर कर रखा है जिसमें उपरोक्त वर्णित प्रतिवादीगण की तामील बार-बार समन जारी करने पर नहीं हो पा रही है और न ही प्रार्थीगण को इनका सही पता मालूम है प्रार्थीगण ने इनका सही पता प्राप्त होने बारा अपनी असमर्थता जताई है। अतः न्यायालय की संतुष्टि व विश्वास हेतु यह सिद्ध हो गया है कि उक्त प्रतिवादीगण की तामील तथा फौतशुदा के वारसान को साधारण ढंग से नहीं हो सकती है। अतः उक्त वर्णित प्रतिवादीगण को इस मुस्त्री मुनादी चस्पांगी द्वारा सूचित किया जाता है कि वह उक्त मुकद्दमा की पैरवी हेतु असालतन या वकालतन तारीख पेशी 30-01-2024 को हाजिर अदालत होकर पैरवी मुकद्दमा करें अन्यथा गैरहाजिरी की सूरत में एकतरफा कार्यवाही अमल में लाई जाकर आगामी आदेश पारित कर दिया जाएगा व बाद तारीख पेशी किसी किस्म का उजर या एतराज स्वीकार्य न होगा।

यह इशतहार मेरे हस्ताक्षर व मोहर अदालत से आज दिनांक 25-11-2023 को जारी हुआ।

मोहर।

हस्ताक्षरित /—  
सहायक समाहर्ता द्वितीय श्रेणी,  
तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0)।

**ब अदालत सहायक समाहर्ता द्वितीय श्रेणी, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0)**

मिसल नं0 : 55/एन0टी/2018

तारीख पेशी : 30-01-2024

तिलक राज, रणजीत सिंह, सुश्मा देवी, कुशमा देवी वारसान जय चन्द, विमला देवी पत्नी जय चन्द, कुशल चन्द सुपुत्र साहिव सिंह, सुदेश कुमारी सुपुत्री साहिव सिंह, समस्त निवासीयान महाल मझैरना उपरला, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0) प्रार्थीगण।

**बनाम**

1. रजनी कुमारी सुपुत्री रसील चन्द, 2. सिमरन रानी पत्नी रसील चन्द, 3. विमला देवी पत्नी सन्तोश चन्द, वनीत सुपुत्र ववलेश सुपुत्री अनीता देवी सुपुत्री सलोनी सुपुत्री वारसान सतोश चन्द, प्रेम चन्द सुपुत्र करतार, सुभाशना देवी पत्नी करतार चन्द, सुनील सुपुत्र पुजा देवी सुपुत्री ओकार चन्द सुपुत्र विशन दास, सरन दास सुपुत्र वंसता, दलीप चन्द सुपुत्र वलवन्त सिंह, हरदेई देवी पत्नी वलवंत सिंह, सैना देवी सुपुत्री अनिरुद्ध, मेहा चन्द, देश चन्द, सुनीत चन्द सुपुत्र अनिरुद्ध, अमरो देवी पत्नी अनिरुद्ध, समस्त निवासीयान महाल मझैरना उपरला, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0) प्रतिवादीगण।

नोटिस बनाम।

विषय.—हि0 प्र0 भू-राजस्व अधिनियम, 1954 की धारा 123 के अन्तर्गत भूमि खेवट भूमि खाता नं0 48, खतौनी नं0 165, ता 169, खसरा कित्ता 30, रकबा 01-49-89 है0, स्थित महाल Majherna Upperla, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0) जमाबन्दी वर्ष 2015-2016.

प्रार्थी तिलक राज, रणजीत सिंह, सुश्मा देवी, कुशमा देवी, वारसान जय चन्द, विमला देवी पत्नी जय चन्द, कुशल चन्द सुपुत्र साहिव सिंह, सुदेश कुमारी सुपुत्री साहिव सिंह, समस्त निवासीयान महाल मझैरना उपरला, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0) ने इस कार्यालय में खाता नं0 34 का दावा भूमि तकसीम दायर कर रखा है जिसमें उपरोक्त वर्णित प्रतिवादीगण की तामील बार-बार समन जारी करने पर नहीं हो पा रही है और न ही प्रार्थीगण को इनका सही पता मालूम है प्रार्थीगण ने इनका सही पता प्राप्त होने बारा अपनी असमर्थता जताई है। अतः न्यायालय की संतुष्टि व विश्वास हेतु यह सिद्ध हो गया है कि उक्त प्रतिवादीगण की तामील तथा फौतशुदा के वारसान को साधारण ढंग से नहीं हो सकती है। अतः उक्त वर्णित प्रतिवादीगण को इस मुस्त्री मुनादी चस्पांगी द्वारा सूचित किया जाता है कि वह उक्त मुकद्दमा की पैरवी हेतु असालतन या वकालतन तारीख पेशी 30-01-2024 को हाजिर अदालत होकर पैरवी मुकद्दमा करें अन्यथा गैरहाजिरी की सूरत में एकतरफा कार्यवाही अमल में लाई जाकर आगामी आदेश पारित कर दिया जाएगा व बाद तारीख पेशी किसी किसम का उजर या एतराज स्वीकार्य न होगा।

यह इश्तहार मेरे हस्ताक्षर व मोहर अदालत से आज दिनांक 25-11-2023 को जारी हुआ।

मोहर।

हस्ताक्षरित/—  
सहायक समाहर्ता द्वितीय श्रेणी,  
तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0)।

**ब अदालत सहायक समाहर्ता द्वितीय श्रेणी, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0)**

मिसल नं0 : 54/एनटी/2018

तारीख पेशी : 30-01-2024

तिलक राज, रणजीत सिंह, सुश्मा देवी, कुशमा देवी, वारसान जय चन्द, विमला देवी पत्नी जय चन्द, कुशल चन्द सुपुत्र साहिव सिंह, सुदेश कुमारी सुपुत्री साहिव सिंह, समस्त निवासीयान महाल मझैरना उपरला, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0) प्रार्थी।

## बनाम

1. उत्तम चन्द, रसील चन्द, प्रेम चन्द सुपुत्रान करतार चन्द, वनीत कुमार, विमलेश कुमारी, अनीता देवी, कुमारी सलोनी, विमला देवी पत्नी संतोश चन्द, औकार चन्द सुपुत्र विशन चन्द, समस्त निवासीयान महाल मझैरना, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0) प्रतिवादीगण।

नोटिस बनाम।

विषय.—हि0 प्र0 भू-राजस्व अधिनियम, 1954 की धारा 123 के अन्तर्गत भूमि खेवट भूमि खाता नं0 34, खतौनी नं0 95, ता 96, खसरा कित्ता 3, रकबा 00-21-56 है0, स्थित महाल Majherna Upperla, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0) जमाबन्दी वर्ष 2011-2012.

प्रार्थी तिलक राज, रणजीत सिंह, सुशमा देवी, कुशमा देवी, वारसान जय चन्द, विमला देवी पत्नी जय चन्द, कुशल चन्द सुपुत्र साहिव सिंह, सुदेश कुमारी सुपुत्री साहिव सिंह समस्त निवासीयान महाल मझैरना उपरला, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0) ने इस कार्यालय में खाता नं0 34 का दावा भूमि तकसीम दायर कर रखा है जिसमें उपरोक्त वर्णित प्रतिवादीगण की तामील बार-बार समन जारी करने पर नहीं हो पा रही है और न ही प्रार्थीगण को इनका सही पता मालूम है प्रार्थीगण ने इनका सही पता प्राप्त होने बारा अपनी असमर्थता जताई है। अतः न्यायालय की संतुष्टि व विश्वास हेतु यह सिद्ध हो गया है कि उक्त प्रतिवादीगण की तामील तथा फौतशुदा के वारसान को साधारण ढंग से नहीं हो सकती है। अतः उक्त वर्णित प्रतिवादीगण को इस मुस्त्री मुनादी चस्पांगी द्वारा सूचित किया जाता है कि वह उक्त मुकद्दमा की पैरवी हेतु असालतन या वकालतन तारीख पेशी 30-01-2024 को हाजिर अदालत होकर पैरवी मुकद्दमा करें अन्यथा गैरहाजिरी की सूरत में एकतरफा कार्यवाही अमल में लाई जाकर आगामी आदेश पारित कर दिया जाएगा व बाद तारीख पेशी किसी किस्म का उजर या एतराज स्वीकार्य न होगा।

यह इश्तहार मेरे हस्ताक्षर व मोहर अदालत से आज दिनांक 25-11-2023 को जारी हुआ।

मोहर।

हस्ताक्षरित/—  
सहायक समाहर्ता द्वितीय श्रेणी,  
तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0)।

ब अदालत तहसीलदार एवं सहायक समाहर्ता, द्वितीय श्रेणी, थुरल, जिला कांगड़ा (हि0प्र0)

किस्म मुकद्दमा : दुरुस्ती नाम

तारीख पेशी : 30-01-2024

श्री वचन सिंह पुत्र प्रकाश चन्द, निवासी महाल वलभूरिया, डा0 वैरघाट, तहसील थुरल, जिला कांगड़ा (हि0प्र0) प्रार्थी।

## बनाम

आम जनता

प्रतिवादी।

विषय.—प्रार्थना-पत्र दुरुस्ती नाम राजस्व अभिलेख महाल वलभूरिया, मौजा वन्दाहू, तहसील थुरल, जिला कांगड़ा (हि0प्र0)।

प्रार्थी श्री वचन सिंह पुत्र प्रकाश चन्द, निवासी महाल वलभूरिया, डा0 वैरघाट, तहसील थुरल, जिला कांगड़ा (हि0प्र0) ने एक प्रार्थना-पत्र मय शपथ-पत्र पीठासीन अधिकारी के समक्ष प्रस्तुत करते हुए अनुरोध

किया है कि उसका नाम जन्म प्रमाण-पत्र, शिक्षा प्रमाण-पत्र में वचन सिंह दर्ज है व उसका विख्यात व सही नाम भी वचन सिंह ही है परन्तु राजस्व अभिलेख महाल वलभूरिया, तहसील थुरल में उसका नाम कंचन सिंह गलत दर्ज हो गया है। अतः प्रार्थी अब अपना नाम राजस्व अभिलेख महाल वलभूरिया, तहसील थुरल में दुरुस्ती करवा करके कंचन सिंह के बजाये वचन सिंह पुत्र प्रकाश चन्द दर्ज करवाना चाहता है।

अतः प्रार्थी का आवेदन स्वीकार करते हुए इस मुस्त्री मुन्यादी चस्पांगी व इश्तहार अखबारी के माध्यम से आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त प्रार्थी के नाम की राजस्व अभिलेख महाल वलभूरिया, तहसील थुरल में कंचन सिंह के बजाये वचन सिंह दर्ज करवाने बारे किसी किस्म की आपत्ति या उजर हो तो वह तारीख पेशी 30-01-2024 को असालतन या वकालतन हाजिर अदालत होकर अपना उजर पेश कर सकता है अन्यथा बाद तारीख पेशी किसी किस्म का उजर एवं एतराज नहीं सुना जावेगा व नाम दुरुस्ती का आदेश पारित कर दिया जाएगा।

यह इश्तहार आज दिनांक 18-12-2023 को मोहर अदालत व मेरे हस्ताक्षर से जारी हुआ।

मोहर।

हस्ताक्षरित /—  
तहसीलदार एवं सहायक समाहर्ता, द्वितीय श्रेणी,  
थुरल, जिला कांगड़ा (हि0प्र0)।

ब अदालत श्री जगदीश चन्द, कार्यकारी दण्डाधिकारी, थुरल, जिला कांगड़ा (हि0प्र0)

मुकद्दमा नं0 : 23 / 2023

तारीख पेशी : 19-01-2024

किस्म प्रकरण : जन्म पंजीकरण

श्रीमती अनिता देवी पुत्री श्री हरी राम, निवासी गांव घरथू, डा0 कौना, तहसील थुरल, ग्राम पंचायत कौना, जिला कांगड़ा (हि0प्र0) प्रार्थिया।

बनाम

आम जनता

प्रतिवादी।

विषय.—जन्म व मृत्यु पंजीकरण अधिनियम, 1969 की धारा 13(3) के तहत जन्म पंजीकरण हेतु प्रार्थना-पत्र।

श्रीमती अनिता देवी पुत्री श्री हरी राम, निवासी गांव घरथू, डा0 कौना, तहसील थुरल, ग्राम पंचायत कौना, जिला कांगड़ा (हि0प्र0) ने इस अदालत में प्रार्थना-पत्र मय ब्यान हल्फी पेश करते हुए आवेदन किया है कि उसका जन्म दिनांक 09-02-1959 को गांव घरथू, डाकघर कौना, तहसील थुरल, ग्राम पंचायत कौना में हुआ है परन्तु अज्ञानतावश उसके जन्म का पंजीकरण स्थानीय ग्राम पंचायत अभिलेख में न करवाया गया है। अतः प्रार्थिया इस न्यायालय के माध्यम से अपने जन्म का पंजीकरण करने का आदेश ग्राम पंचायत कौना को जारी करवाना चाहती है।

अतः प्रार्थिया का आवेदन स्वीकार करते हुए इस इश्तहार मुस्त्री मुनादी द्वारा आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति या संस्था को उपरोक्त की जन्म तिथि 09-02-1959 के पंजीकरण बारे कोई उजर एवं एतराज हो तो वह असालतन या वकालतन तारीख पेशी 19-01-2024 को हाजिर अदालत होकर अपना उजर व एतराज पेश कर सकता है। बाद तारीख पेशी किसी किस्म का उजर एवं एतराज नहीं

सुना जावेगा व उपरोक्त श्रीमती अनिता देवी की जन्म तिथि को पंजीकृत करने का आदेश उप-स्थानीय पंजीकार, जन्म व मृत्यु, ग्राम पंचायत कौना को पारित कर दिया जाएगा।

यह इशतहार मेरे हस्ताक्षर व मोहर अदालत से आज दिनांक 19-12-2023 को जारी हुआ।

मोहर।

हस्ताक्षरित /—  
कार्यकारी दण्डाधिकारी,  
थुरल, जिला कांगड़ा (हि0प्र0)।

**ब अदालत श्री अभिषेक भास्कर, कार्यकारी दण्डाधिकारी, जयसिंहपुर, जिला कांगड़ा (हि0प्र0)**

मु0 नं0 : 29 / तह0 / 2023

तारीख पेशी : 06-02-2024

1. श्री पंकज कुमार पुत्र श्री सुभाष चन्द, निवासी डा0 लोअर लम्वागांव, तहसील जयसिंहपुर, जिला कांगड़ा (हि0प्र0)।

2. रेखा प्रभाकर पुत्री राजिन्द्र प्रभाकर, निवासी मोहल्ला चव्वा, मकान नं0 45, वार्ड नं0 6, गांव व डा0 सन्तोषगढ़, तहसील व जिला ऊना (हि0प्र0) हाल पत्नी पंकज कुमार पुत्र श्री सुभाष चन्द, निवासी डा0 लोअर लम्वागांव, तहसील जयसिंहपुर, जिला कांगड़ा (हि0प्र0) प्रार्थीगण।

बनाम

आम जनता

प्रतिवादी।

विषय.—मुस्त्री मुनादी व इशतहार अखबारी / राजपत्र बराये विवाह दर्ज करने बारे।

प्रार्थीगण श्री पंकज कुमार पुत्र श्री सुभाष चन्द, निवासी डा0 लोअर लम्वागांव, तहसील जयसिंहपुर, जिला कांगड़ा (हि0प्र0) व रेखा प्रभाकर पुत्री राजिन्द्र प्रभाकर, निवासी मोहल्ला चव्वा, मकान नं0 45, वार्ड नं0 6, गांव व डा0 सन्तोषगढ़, तहसील व जिला ऊना (हि0प्र0) हाल पत्नी पंकज कुमार पुत्र श्री सुभाष चन्द, निवासी डा0 लोअर लम्वागांव, तहसील जयसिंहपुर, जिला कांगड़ा (हि0प्र0) ने स्वयं इस अदालत में हाजिर होकर प्रार्थना-पत्र मय ब्यान हल्फी पेश करके निवेदन किया है कि दिनांक 21-11-2020 को हिन्दू रीति-रिवाज के साथ गांव व डा0 लम्वागांव, तहसील जयसिंहपुर में सम्पन्न हुई थी। इस सन्दर्भ में प्रार्थीगण ने अपना शपथ-पत्र भी संलग्न किया है किन्तु अज्ञानतावश विवाह तिथि को सम्बन्धित ग्राम पंचायत के अभिलेख में दर्ज नहीं करवा सके हैं। अतः अपनी शादी को ग्राम पंचायत लोअर लम्वागांव में दर्ज करवाने बारे आवेदन किया है।

अतः प्रार्थीगण का आवेदन स्वीकार करते हुए इस इशतहार मुस्त्री मुनादी व चस्पांगी के माध्यम से प्रतिवादी आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त शादी को दर्ज करने बारे कोई उजर या एतराज हो तो वह असालतन या वकालतन तारीख पेशी 06-02-2024 को दोपहर 2.00 बजे हाजिर अदालत होकर अपना उजर या एतराज पेश कर सकता है अन्यथा बाद गुजरने तारीख पेशी किसी किस्म का उजर एवं एतराज नहीं सुना जावेगा व उपरोक्त शादी दर्ज करने का आदेश सम्बन्धित स्थानीय उप-पंजीकार, सह ग्राम पंचायत अधिकारी लोअर लम्वागांव को जारी कर दिया जायेगा।

यह इशतहार मोहर अदालत व मेरे हस्ताक्षर से आज दिनांक 08-12-2023 को जारी हुआ।

मोहर।

हस्ताक्षरित /—  
कार्यकारी दण्डाधिकारी,  
जयसिंहपुर, जिला कांगड़ा (हि0प्र0)।

ब अदालत श्री बीरवल, सहायक समाहर्ता प्रथम श्रेणी, तहसील डाडा सीबा,  
जिला कांगड़ा (हि0प्र0)

इन्तकाल नं0 : 1096 वरास्त

तारीख इन्द्राज : 12-12-2023

श्रीमती शीला देवी विधवा गांधी राम (मृत्का), निवासी महाल चनौर, तहसील डाडा सीबा, जिला कांगड़ा (हि0प्र0)।

वाहक

विनय कुमार पुत्र गांधी राम, निवासी महाल चनौर, तहसील डाडा सीबा, जिला कांगड़ा (हि0प्र0)।

विषय.— इन्तकाल नं0 1096 वरास्त तिथि इन्द्राज 12-12-2023 तस्दीक करने बारे।

नोटिस बनाम.—1. गौरव, सौरभ पुत्र श्रीमती शालिनि पुत्री व श्रीमती जगदम्बा देवी विधवा कुलदीप कुमार पुत्र गांधी राम, 2. साहिल पुत्र रीतिका पुत्री व श्रीमती इन्द्रा रानी विधवा रमेश कुमार पुत्र गांधी राम, 3. सुभाष चन्द, वेद प्रकाश पुत्र गांधी राम, समस्त निवासीगण महाल चनौर, तहसील डाडा सीबा, जिला कांगड़ा (हि0प्र0)।

आपको बजरिया इश्तहार सूचित किया जाता है कि श्रीमती शीला देवी विधवा गांधी राम की मृत्यु दिनांक 28-08-2023 को होने के पश्चात् पटवारी द्वारा वरास्त का इन्तकाल नं0 1087, दिनांक 29-09-2023 को दर्ज हुआ जिसमें मृत्का ने अपनी भूमि विनय कुमार पुत्र गांधी राम के नाम पंजीकृत वसीयत द्वारा करवा रखी है। परन्तु वंचित वारसान को साधारण तरीके से इतलाह न होने के कारण उक्त इन्तकाल दिनांक 01-12-2023 को खारिज हो चुका है।

अब पुनः उक्त भूमि का इन्तकाल नं0 1096 वरास्त, दिनांक 12-12-2023 को दर्ज किया गया है जिसे जलसा आम में दिनांक 04-01-2024 को तस्दीक किया जाना है। अतः उक्त वर्णित वंचित वारसान को अन्तिम अवसर प्रदान करते हुए बजरिया राजपत्र इश्तहार/लोकल समाचार पत्र व मुश्त्री मुनादी द्वारा सूचित किया जाता है कि आप दिनांक 04-01-2024 को 10.30 बजे सुबह असातन या वकालतन मुकाम पटवार खाना चनौर में हाजिर होकर उपरोक्त मुकद्दमा की पैरवी करें। हाजिर न होने की सूरत में आपके विरुद्ध एक पक्षीय कार्यवाही अमल में लाई जायेगी। उसके उपरान्त आपका कोई भी उजर/एतराज काबिले समायत न होगा तथा उपरोक्त इन्तकाल स्वीकृत कर दिया जाएगा।

आज दिनांक 22-12-2023 को मेरे हस्ताक्षर व मोहर न्यायालय द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित/—  
सहायक समाहर्ता प्रथम श्रेणी,  
डाडा सीबा, जिला कांगड़ा (हि0प्र0)।

ब अदालत श्री जगदीस चन्द, तहसीलदार एवं कार्यकारी दण्डाधिकारी, थुरल,  
जिला कांगड़ा (हि0प्र0)

मुकद्दमा नं0 : 24 / 2023

तारीख पेशी : 22-01-2024

श्रीमती जगतम्बी देवी पत्नी श्री प्रीतम सिंह, वासी गांव नलेहड, डा0 थुरल, तहसील थुरल, जिला कांगड़ा (हि0प्र0) प्रार्थिया।

## बनाम

आम जनता

प्रतिवादी।

विषय.—जन्म व मृत्यु पंजीकरण अधिनियम, 1969 की धारा 13(3) के तहत मृत्यु पंजीकरण हेतु प्रार्थना-पत्र।

श्रीमती जगतम्बी देवी पत्नी श्री प्रीतम सिंह, वासी गांव नलेहड, डा0 थुरल, तहसील थुरल, जिला कांगड़ा (हि0प्र0) ने इस अदालत में प्रार्थना-पत्र मय ब्यान हल्फी पेश करते हुए आवेदन किया है कि उसके पति श्री प्रीतम सिंह की मृत्यु दिनांक 04-11-1983 को गांव नलेहड, डा0 थुरल, तहसील थुरल, जिला कांगड़ा (हि0प्र0) में हुई थी परन्तु अज्ञानतावश प्रार्थिया द्वारा अपने पति की मृत्यु का पंजीकरण ग्राम पंचायत अभिलेख में दर्ज न करवाया गया है। अतः प्रार्थिया इस न्यायालय के माध्यम से अपने पति की मृत्यु का पंजीकरण करने का आदेश ग्राम पंचायत थुरल खास को जारी करवाना चाहती है।

अतः प्रार्थिया का आवेदन स्वीकार करते हुए इस इशतहार मुस्त्री मुनादी व चस्पांगी द्वारा आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति या संस्था को उपरोक्त श्री प्रीतम सिंह पुत्र श्री हाक्कम सिंह की मृत्यु तिथि 04-11-1983 के पंजीकरण बारे कोई उजर एवं एतराज हो तो वह असालतन या वकालतन तारीख पेशी 22-01-2024 को हाजिर अदालत होकर अपना उजर व एतराज पेश कर सकता है। बाद तारीख पेशी किसी किस्म का उजर एवं एतराज नहीं सुना जावेगा व उपरोक्त श्री प्रीतम सिंह पुत्र श्री हाक्कम सिंह की मृत्यु तिथि को पंजीकृत करने का आदेश उप-स्थानीय पंजीकार, जन्म व मृत्यु, ग्राम पंचायत थुरल खास को पारित कर दिया जाएगा।

यह इशतहार मेरे हस्ताक्षर व मोहर अदालत से आज दिनांक 22-12-2023 को जारी हुआ।

मोहर।

हस्ताक्षरित / —  
कार्यकारी दण्डाधिकारी,  
थुरल, जिला कांगड़ा (हि0प्र0)।

## राज्य निर्वाचन आयोग हिमाचल प्रदेश

## STATE ELECTION COMMISSION HIMACHAL PRADESH

आर्मसडेल, शिमला-171002 Armsdale, Shimla-171002 Tel. 0177-2620152, 2620159, 2620154, Email:secysec-hp@nic.in

## NOTIFICATION

*Dated, the 2nd January, 2024*

**No. SEC 1-2/94-II-6393-6401.**— Whereas, Rule 9 of the State Election Commissioner (Condition of Service) Rules, 2016 provides that the State Election Commissioner shall be entitled to receive such post retirement benefits as is admissible to the Judge of the High Court;

And whereas, the Government of Himachal Pradesh *vide* Notification No. Home-B-E(3)20/2006-II dated 21st March, 2023 has enhanced the lump-sum amount admissible to the Judges who have retired from the High Court of Himachal Pradesh for defraying the expenses for orderly, driver, security and secretariat assistances from existing Rs. 12,000/- to Rs. 35,000/- per month alongwith additional amount of Rs. 1500/- per month for defraying the telephone expenses;

And whereas, the Governor, Himachal Pradesh *vide* Notification No. PCH-HA(4)1/94-II-Loose-23711-18, dated 26th April, 2018 has ordered to grant post retirement benefits to Sh. T.G. Negi (Retired IAS) as is admissible to the Judge of the High Court;

Therefore, Sh. T.G. Negi (Retired IAS) former State Election Commissioner, Himachal Pradesh is hereby granted allowance to defray expenses on account of orderly, driver, security and secretariat assistances etc., @Rs. 35,000/- per month and telephone expenses Rs. 1500/- per month with effect from 21st March, 2023;

The expenditure on this account shall be debitable to Major Head 2015-Election-109-charges for the conduct of election to Panchayati Raj/Local Bodies-01-charges for the conduct of election for the year 2023-24 under SOE "Other Charges" (20) of demand No. 17.

By order,

Sd/-

*State Election Commissioner,  
Himachal Pradesh.*